

# 2008 Legislative Summary

ARIZONA STATE SENATE  
Forty-eighth Legislature, Second Regular Session  
Timothy S. Bee, President



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# Arizona State Senate

August 22, 2008

Dear Reader:

The 2008 Legislative Summary, commonly referred to as the “Spiel,” was prepared by the Senate Research Staff under the direction of Timothy S. Bee, Arizona Senate President.

The Senate Research Staff is a nonpartisan staff that provides professional analysis services to the Arizona Senate. It is comprised of full-time legislative committee research analysts and support staff, as well as session-only interns from the state’s universities. The Senate Research Staff has existed as a professional staff at the Arizona Senate for over 30 years.

The Summary presents an overview of all legislation approved by the Legislature during the Forty-eighth Legislature, Second Regular Session (2008). Additional bill information can be obtained from the Arizona Legislature’s website: [www.azleg.gov](http://www.azleg.gov).

To prepare this document, the Senate Research Staff relies on many individuals whose assistance is integral to the process of producing a high quality product and is deeply appreciated. However, in recent years no one has contributed more to this endeavor than Janice Stell, Senate Research Staff Executive Assistant. Her dedication and attention to detail are attributes that we as a Staff have come to rely on and implicitly trust. On behalf of Senate Research Staff, I sincerely thank everyone who participated in producing this year’s Spiel.

Victoria Regens  
Senate Research Staff Director

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## **ACTION KEY**

E - Emergency

W/O - Without Emergency

V/O - Veto Override

RFEIR – Requirements for Enactment; Initiative or Referendum

W/S - Without Signature

LIVS - Line Item Veto Signed

RFE - Requirements for Enactment

# **Appropriations Committee**

**Senator Robert “Bob” Burns, Chairman**



**Katy Yanez, Research Analyst**

**Jake Agron, Assistant Analyst**

# APPROPRIATIONS COMMITTEE

## LEGISLATION ENACTED

~~bake sales; regulation; exemption~~ (NOW: appropriation; English language learners) (S.B. 1096) – Chapter 34 W/S

SEE EDUCATION K-12 COMMITTEE.

centennial funding; capitol renovation (S.B. 1337) – Chapter 313 W/O

Reverts to the state General Fund \$2,000,000 of the FY 2006-2007 \$2,500,000 appropriation to the Arizona Historical Advisory Commission (AHAC) for purposes relating to the Arizona Centennial (centennial). Transfers \$50,000 of the remaining appropriation to AHAC for deposit in the Arizona Centennial Account to develop and coordinate a statewide plan regarding the centennial. Transfers the remaining \$450,000 to Legislative Council for the costs of the design and site preparation of the renovation of the state capitol building to commemorate the centennial.

Removes the requirement that AHAC receive and account for \$5,000,000 in matching monies through gifts, grants or donations before the appropriation may be spent. Removes the requirement that AHAC expenditures receive an affirmative vote of the Legislative Council. Repeals the FY 2006-2007 transfer of \$50,000 to AHAC to develop and coordinate a statewide centennial plan.

school safety program; reserve officers (S.B. 1401) – Chapter 74

Allows a law enforcement agency to appoint a full authority Arizona Peace Officer Standards and Training Board certified reserve peace officer to participate in the School Safety Program.

appropriations; named claimants (S.B. 1435) – Chapter 315

The annual general relief bill for named claimants, this act appropriates \$181,560 to the Arizona Department of Administration to pay various claims made against the state. Of that amount, \$159,544 is appropriated from the state General Fund, and the remaining \$22,015 is appropriated from other funds.

~~global security risks; investments; prohibition~~ (NOW: divestments; terrorism countries; contract prohibition) (S.B. 1489) – Chapter 201

Requires the State Treasurer (Treasurer), the Arizona State Retirement System (ASRS) and the Fund Manager of the Public Safety Personnel Retirement System (PSPRS) to divest from any company known to support international terrorism. Modifies reporting requirements and policy forming procedures for the Treasurer, ASRS and PSPRS for identifying those countries that are sponsors of terrorism. Appropriates \$60,000 and one-half FTE from the ASRS Administration Account to ASRS for the implementation of divesting from companies that have business activities with countries in violation of supporting international terrorism on the general effective date of the act.



## APPROPRIATIONS COMMITTEE (Cont'd.)

~~municipalities; technical correction~~ (NOW: military facility; reservations; security) (H.B. 2194) – Chapter 300 E

Effective July 1, 2008, classifies as a class 6 felony, criminal trespassing on a military reservation or facility by knowingly entering or remaining unlawfully within a structure or fenced yard of a military reservation or facility. Authorizes the Adjutant General to implement U.S. Department of Defense security methods and establishes new fingerprint requirements for all Department of Emergency and Military Affairs employees, unless specifically exempted.

~~eminent scholars fund; technical correction~~ (NOW: general appropriations act; 2008-2009) (H.B. 2209) – Chapter 285

Effective July 1, 2008, makes state General Fund (GF) and other fund appropriations for FY 2008-2009 for the operation of state government, which includes \$9.9 billion in GF spending. H.B. 2209 includes the following major provisions:

### ***Fund Transfers***

- Transfers \$339 million in other funds to the GF.
- Shifts a combined \$106 million from the Highway User Revenue Fund and the State Highway Fund to the Department of Public Safety to fund the State Highway Patrol.

### ***Schools – Building Renewal and New Construction***

- Utilizes the K-12 Rollover by deferring \$330 million in Basic State Aid and additional state aid to school districts until July 1, 2009.
- Suspends \$66 million in Building Renewal for schools in FY 2008-2009.
- Defers in FY 2008-2009 \$187 million for the funding of design or construction of new school facilities.
- Reduces GF expenditures by authorizing the School Facilities Board to enter into lease-to-own transactions for up to \$593 million in FY 2008-2009, of which \$344 million is recouped from FY 2007-2008 or prior year expenditures.

### ***Additional Agency Reductions***

- Reduces FY 2007-2008 GF appropriations made to state agencies by \$343 million.

For budget details, refer to the Joint Legislative Budget Committee FY 2009 Appropriations Report.

~~regents; scholarships; technical correction~~ (NOW: budget reconciliation; criminal justice) (H.B. 2210) – Chapter 286

***Court Fees and Expenses*** – Allows the Arizona Supreme Court to increase initial and subsequent filing fees and increases fees charged by the clerk of the superior court and justices of the peace. Allows the Arizona Supreme Court to increase the clerk fees by a percentage based on a specific formula. Further distributes monies collected from justice of the peace filing fees into various funds, including the Elected Officials' Retirement Plan, reducing the percentage distributions to current beneficiaries. Requires, based on the county population, certain percentages of the monies transmitted to the county treasurer to be retained and used by the court collecting the fees and continues to require the state and the county to pay a percentage of the compensation and employee-related expenditures of a justice of the peace. Eliminates the requirement that the Arizona Supreme Court print and distribute the court's report of decisions.

## **APPROPRIATIONS COMMITTEE (Cont'd.)**

***Probation and Global Position System (GPS) Monitoring*** – Allows the court to impose a fee on a probationer who is placed on GPS monitoring in order to offset the cost of the monitoring device and requires the fee to be deposited in the Adult Probation Services Fund. Requires the Administrative Office of the Courts (AOC) to recover a proportional share of the cost of the monitoring devices.

***Defensive Driving*** – Requires, for an individual who attends a defensive driving school, a \$45 surcharge in lieu of the civil penalty or criminal fine payment imposed for a traffic violation and the surcharge to be deposited in the state General Fund (GF).

***Photo Enforcement System*** – Retroactive to July 1, 2008: 1) requires the Department of Public Safety (DPS) to establish a state photo enforcement system, consisting of a civil penalty or fine of \$165; 2) establishes the Photo Enforcement Fund (PE Fund), consisting of monies received from citations or notices of violation issued by the system and appropriated to DPS for administrative and personnel costs of the system with any monies in excess of \$250,000 at the end of each calendar quarter to be deposited in the state GF; 3) prohibits a civil traffic violation or a notice of violation by the system from being considered for the purpose of determining whether the person's driver license should be suspended or revoked.

Restricts, in FY 2008-2009, DPS from spending more than \$2,173,000 from the PE Fund for DPS personnel and related expenditures. Appropriates the sum of \$4,056,600 in FY 2008-2009 from the PE Fund to the AOC to process system citations. Appropriates the sum of \$20,361,300 in FY 2008-2009 from the PE Fund to DPS for contract payments for the operation of the system.

***Public Safety Equipment Fund*** – Establishes the Public Safety Equipment Fund (PSE Fund), administered by DPS, consisting of monies deposited from assessments for violations of driving a vehicle or operating a motorized watercraft or aircraft while under the influence of intoxicating liquor or drugs. Distributes the monies in the PSE Fund as follows: 1) the first \$3,000,000 received each fiscal year is a continuing appropriation to DPS for safety equipment and is exempt from lapsing; 2) requires all other monies each fiscal year to be deposited in the state GF. Appropriates \$500,000 from the first monies received by the PSE Fund in FY 2008-2009 to the Arizona Criminal Justice Commission (ACJC) for distribution to state and local law enforcement and other governmental entities for fire suppression kits for Ford Crown Victoria vehicles. Requires ACJC to distribute the monies on a first-come first-served basis with a maximum of \$1,000 per vehicle and allows DPS to use the remainder of the \$3,000,000 for safety equipment.

***Arizona Department of Corrections*** – Continues to require the Arizona Department of Corrections (ADC) to report line item expenditure detail for actual, estimated and requested expenditures when ADC submits its FY 2009-2010 budget request, containing as much detail as submitted in previous years for prior line items. Allows, retroactive to July 1, 2007, any monies appropriated to the Transition Office Fund to be used for costs to operate transition programs.

***Other Funds*** – Continues for FY 2008-2009 the diversion of Criminal Justice Enhancement Fund monies from the state GF to the Crime Laboratory Assessment Fund and exempts these monies from distribution to political subdivisions.

Allows, for FYs 2007-2008 and 2008-2009, the Attorney General to use monies in the Consumer Fraud Revolving Fund for any operating expenses incurred by the Department of Law, including any cost or expense associated with the tobacco master settlement arbitration.

## APPROPRIATIONS COMMITTEE (Cont'd.)

***Time Payment Fee*** – Makes permanent, by repealing Laws 2006, Chapter 369, the \$20 time payment fee paid to the courts for any penalty, fine or sanction not paid in full on the date the court imposed the fine, penalty or sanction.

***Miscellaneous*** – Renames the “Arizona Public Safety Communications Commission” as the “Arizona Public Safety Communications Advisory Commission” (Commission) and moves the Commission from DPS to the Government Information Technology Agency.

~~regents; officers; technical correction~~ (NOW: budget reconciliation; education) (H.B. 2211) – Chapter 287 W/O

Makes statutory and session law changes necessary to implement the FY 2008-2009 state budget, including:

***K-12 Funding*** – Increases by two percent the additional assistance amount for charter schools and increases the base level for all public schools by two percent in FY 2008-2009. Suspends rapid decline funding for school districts in FY 2008-2009. Specifies the K-12 qualifying tax rate for FY 2008-2009. Extends the “soft cap” on school districts’ budgeting for desegregation activities for FY 2008-2009. Allows school districts, beginning in FY 2009-2010, to increase their budget for actual utility costs by adjusting the school district’s revenue control limit by specified formula amounts (using two-year averages and actual utilities costs in previous years) for FYs 2009-2010, 2010-2011 and 2011-2012 through 2020-2021.

***Joint Technological Education District (JTED)*** – Funds state aid for JTEDs in FY 2008-2009 at 91 percent of the amount that otherwise would be provided by law.

***K-12 Rollover*** – Defers, until July 1, 2009, \$602,627,700 of state aid entitlement for school districts that would otherwise be apportioned to school districts on May 15, 2009, and June 15, 2009. Appropriates \$602,627,700 in FY 2009-2010 from the state General Fund (GF) for the state aid entitlement for school districts deferred in FY 2008-2009 to be disbursed on July 1, 2009, and \$886,200 in FY 2009-2010 from the state GF to offset costs incurred by school districts resulting from the K-12 rollover.

***Technology Assisted Project-Based Instruction (TAPBI)*** – Prohibits the Arizona Department of Education from recouping past TAPBI repayments.

***Voluntary Full-Day Kindergarten*** – Counts kindergarten students as full-time for the purpose of determining a school district’s new construction needs.

***Teacher Performance Pay Program (Program)*** – Specifies the funding percentage increase, by stages, for each fiscal year the Legislature appropriates sufficient monies for the Program. Allows a Career Ladder or Optional Performance Incentive Program (OPIP) school district to participate in the Program, but decreases the school district’s Career Ladder and OPIP funding by the same amount that the Legislature appropriates for participation in the Program.

***School Facilities Board (SFB)*** – Continues the SFB for ten years until July 1, 2018. Prohibits the SFB from funding any new school design or construction for new schools in FY 2008-2009 unless a school district qualifies for new space resulting from the implementation of voluntary full-day kindergarten. Permits the SFB to enter into lease-to-own transactions up to \$593 million in FY 2008-2009, limited to up to 15-year terms.

## **APPROPRIATIONS COMMITTEE (Cont'd.)**

Suspends the building renewal formula for FY 2008-2009. Directs the SFB to administer the newly created Building Renewal Grant Fund (Grant Fund) for primary building renewal projects, such as major renovations and repairs, for school district buildings currently in the SFB's database.

Authorizes the SFB, until December 31, 2008, to enter into a loan agreement for up to \$12 million with a union high school district to fund facilities costs under certain conditions. Requires the school district to conduct a Class B bond election and repay the SFB loan from bond proceeds, and, if the bonds are not approved, the school district must repay the loan with building renewal or unrestricted capital outlay monies.

***Task Force on the Arizona Assessment of Achievements Test (Task Force)*** – Creates a seven-member Task Force, consisting of appointments by the State Board of Education, to: 1) examine high stakes tests in other states that incorporate a national college admission test; 2) develop an Arizona Assessment of Achievements test; and 3) submit a report to the Governor and the Legislature on the Task Force's recommendations by June 30, 2009.

***Lottery Changes*** – Prohibits any lottery game or game play style that uses gaming devices or video lottery terminals. Eliminates the four percent cap on lottery promotion or advertising services. Expands the range of compensation for licensed retail sales agents. Modifies the percentage distribution cap of lottery revenues to beneficiaries and creates three new "buckets" or lottery beneficiaries: 1) University Capital Improvement Lease-To-Own and Bond Fund (University Fund); 2) Department of Environmental Quality's Water Supply Development Fund; and 3) Community Protection Initiative Fund. Appropriates \$750,000 from the State Lottery Fund in FY 2008-2009 to the Arizona State Lottery for an agency-wide performance based compensation plan.

***University Capital Improvement*** – Authorizes the Arizona Board of Regents (ABOR) to issue up to \$1 billion in lease-to-own or bond agreements for building renewal projects and new facilities, of which \$470 million is allocated for the University of Arizona Phoenix biomedical campus. Creates the University Fund, consisting of monies from lottery distributions, monies deposited by the ABOR and legislative appropriations. Requires ABOR to fund at least 20 percent of the debt service payments, with the remaining 80 percent received through lottery distributions. Exempts the proceeds from the \$1 billion issuance from each university's debt limit.

***Arizona Commission for Postsecondary Education (ACPE)*** – Continues the ACPE for two years, until July 1, 2010. Modifies the eligibility requirements of the Postsecondary Education Grant (PEG) and allows good cause exceptions for minimum years for degree completion required by the PEG and the Private Postsecondary Education Student Financial Assistance Program.

***Community Colleges*** – Suspends capital outlay funding for the community college system in FY 2008-2009.

***Miscellaneous*** – Repeals the nonlapsing FY 2006-2007 appropriation for the E-Learning Pilot Program and directs unexpended monies to the state GF. Suspends the state match of 2:1 for the Arizona Financial Aid Trust Fund.

~~domestic relations; temporary orders~~ (NOW: budget reconciliation; health) (H.B. 2275) – Chapter 288

Makes statutory and session law changes related to health and welfare issues to implement the FY 2008-2009 budget.

## **APPROPRIATIONS COMMITTEE (Cont'd.)**

***Arizona Health Care Cost Containment System (AHCCCS)*** – Prohibits, for rates effective October 1, 2008, through September 30, 2009, AHCCCS from increasing the inpatient hospital tier per diem rates, inpatient hospital outlier thresholds or aggregate outpatient hospital fee schedule rates above the rates in effect on September 30, 2008, except that AHCCCS shall continue the phase-in of outlier cost-to-charge ratios.

Requires the AHCCCS Administration to determine every six months, rather than on an annual basis, the continued eligibility of any childless AHCCCS recipient who is at least 21 years old.

Makes permanent the KidsCare Parents Program (Program). Conditions the Program on the availability of an enhanced three-to-one federal match rate for the Program; ends eligibility for the Program on the expiration of the enhanced match rate.

Requires, in FY 2008-2009, Maricopa County to transfer \$24,168,400 and Pima County to transfer \$3,794,400 to the AHCCCS Administration for deposit in the Budget Neutrality Compliance (BNC) Fund. Allows the counties to meet these requirements from any source of county revenue designated by the county, and excludes the payments from county expenditure limitations.

Sets the county contributions for Arizona Long Term Care System (ALTCS) by county. Prohibits, in FY 2008-2009, the AHCCCS Administration from transferring \$17,830,500 to counties for refunds of county ALTCS costs for FYs 2006-2007 and 2007-2008, and requires AHCCCS to deposit the money in the BNC Fund.

Decreases Maricopa County's FY 2008-2009 acute care contribution by \$1,515,200 below FY 2007-2008. Continues county contributions for various programs at FY 2007-2008 levels. Continues to exclude, retroactive to June 30, 2004, county contributions for Proposition 204 administrative costs and hospitalization and medical care from county expenditure limitations.

Suspends the Temporary Medical Coverage Program during FY 2008-2009.

***Disproportionate Share Hospital (DSH) Payments*** – Continues to require the Maricopa Special Health Care District (District) and the Arizona State Hospital (State Hospital) to provide a certified public expense (CPE) form for qualifying DSH expenditures. Continues to require the AHCCCS Administration to distribute \$4,202,300 to the District and deposit the remaining federal funds into the state General Fund. Prescribes procedures for when the CPE amount is less than estimated. Stipulates that the DSH payments include \$26,147,700 for private qualifying DSH hospitals.

***Maricopa Integrated Health System (MIHS) Audit*** – Requires the Auditor General to conduct a financial and performance audit of the District, including MIHS, and provide a report to the Governor and Legislature by March 15, 2009. Prescribes the content of the report, including identifying and examining the current financial, administrative and operational issues of the District, and identifying changes required to ensure financial stability.

***Healthcare Group (HCG)*** – Increases, from one to two, the minimum number of employees an employer must have in order to contract for HCG coverage. An employer group of one eligible employee who is enrolled in HCG before the effective date of this act may continue to be enrolled in HCG if the employer group continues to meet any applicable requirements for enrollment.

## **APPROPRIATIONS COMMITTEE (Cont'd.)**

Reduces the required “go-bare” period for enrollment in HCG from six to three months. Requires, beginning August 1, 2008, through June 30, 2009, HCG to limit enrollment to no more than five percent more than the number of employer groups enrolled as of July 31, 2008. Requires, beginning July 1, 2009, and each subsequent fiscal year, HCG to limit employer group enrollment to no more than five percent more than the number of employer groups enrolled in the program at the end of the preceding fiscal year. Requires priority for new enrollment in HCG to be given to uninsured groups.

Prohibits the AHCCCS Administration and contractors from reimbursing a hospital that is not contracted with HCG for services provided at the hospital to a member of HCG, except for emergency services. Sets the reimbursement rate for an emergency medical condition at a noncontracted hospital depending on the county population. Requires noncontracted hospitals to notify the contractor when a member is stabilized.

Allows the AHCCCS Administration to contract directly with health care providers in counties with less than 500,000 persons.

Requires the AHCCCS Administration to set premiums that cover projected medical and administrative costs in the aggregate for the contract period and that are determined pursuant to generally accepted actuarial principles and practices by an independent actuary. Requires the AHCCCS Administration to consider age, sex, health status-related factors, group size, geographic area and community rating when it establishes premiums for HCG.

Prohibits a health benefit plan from providing or offering any service, benefit or coverage that is not part of the plan contract. Requires the AHCCCS Administration to establish utilization management control standards for participating contractors that meet nationally recognized standards for managed care utilization. Stipulates that contractors that do not meet these standards are not eligible for stop-loss coverage for medical costs in excess of these standards.

Requires the AHCCCS Administration to submit quarterly financial reports on HCG, an annual fiscal audit and the actuarial analysis used to establish premiums to the Joint Legislative Budget Committee.

***Department of Health Services*** – Continues to require Maricopa and Pima counties and all cities to pay 86 percent of restoration to competency costs. Continues to exempt all other counties from paying these costs.

Reduces, retroactive to June 30, 2008, the fund balance deposited in the Health Crisis Fund from the Medically Needy Account from \$1,000,000 to \$500,000 on July 1, 2008.

***State Employee Health Insurance*** – Continues to prohibit the Arizona Department of Administration from implementing a differentiated health insurance premium based on the integrated or nonintegrated status of a state employee health insurance provider beginning October 1, 2008.

***Arizona Pioneers’ Home and Disabled Miners Hospital*** – Retroactive to July 1, 2008, the Arizona Pioneers’ Home and Disabled Miners Hospital is continued until July 1, 2016.

***Behavior Analysts*** – Establishes licensure and regulation of behavior analysts by the Board of Psychologist Examiners (Board). Requires, beginning January 1, 2010, a person who wishes to practice as a behavior analyst to be licensed by the Board. Outlines the educational and experience

## APPROPRIATIONS COMMITTEE (Cont'd.)

requirements of licensees. Enumerates duties of the Board, including licensing and regulating behavior analysts, conducting investigations of complaints and taking disciplinary action.

~~special education; age eligibility~~ (NOW: capital outlay; fiscal year 2008-2009) (H.B. 2278) – Chapter 289

Makes appropriations and session law changes related to capital outlay for the FY 2008-2009 state budget.

***Building Renewal*** – Appropriates the following amounts in FY 2008-2009 to the following agencies for building renewal:

AGENCY	FUND	AMOUNT
Department of Administration (ADOA)	Capital Outlay Stabilization Fund	\$6,100,000
Department of Transportation (ADOT)	State Highway Fund	\$4,052,000
	State Aviation Fund	\$156,900
Arizona Exposition and State Fair Board	Arizona Exposition and State Fair Fund	\$1,794,300
Game and Fish (G&F) Department	G&F Fund	\$531,000
Arizona Lottery Commission	State Lottery Fund	\$68,000

***Major Capital Projects*** – Appropriates the following amounts in FY 2008-2009 to the following agencies for major capital projects:

AGENCY	PURPOSE	FUND	AMOUNT
ADOA	Capital Mall fire systems replacement	Capital Outlay Stabilization Fund	\$491,000
G&F	Boat shade canopies	Watercraft Licensing Fund	\$120,000
	Boat registration kiosks	Watercraft Licensing Fund	\$240,000
	Shooting range access improvements	G&F Capital Improvement Fund	\$150,000
	Statewide preventative maintenance	G&F Fund	\$30,000
	Headquarters construction	Watercraft Licensing Fund	\$80,000
	Yuma office remodel/expansion	G&F Capital Improvement Fund	\$954,000
	Mesa office paving project	G&F Capital Improvement Fund	\$250,000
ADOT	Statewide highway construction	State Highway Fund (SHF)	\$305,582,000
	Airport planning and development	State Aviation Fund	\$31,200,000
	Far southeast valley highway maintenance yard	SHF	\$2,350,000
	De-icer buildings	SHF	\$1,825,000
	Oil and asphalt storage tanks	SHF	\$1,389,000
	Vehicle wash systems	SHF	\$2,075,000

***Miscellaneous*** – Eliminates a \$2,207,000 appropriation from the state General Fund to ADOA for renovation of the old Health Laboratory.

Allows the Director of ADOA to enter into a 15-year lease-purchase agreement for the issuance of certificates of participation in an amount not to exceed \$7,500,000 for the design and construction of a state emergency operations center.

Appropriates \$600,000 from the Safety Enforcement and Transportation Infrastructure Fund in FY 2008-2009 to ADOT to provide funding to the Arizona-Mexico Commission, the Department of Homeland Security and the Arizona International Development Authority for improving traffic safety, border security and infrastructure planning.

## APPROPRIATIONS COMMITTEE (Cont'd.)

~~industries for the blind; procurement~~ (NOW: budget reconciliation; general revenues) (H.B. 2391) – Chapter 290

Makes necessary statutory and session law changes relating to general revenues to implement the FY 2008-2009 budget.

**Urban Revenue Sharing** – Establishes a minimum distribution amount for incorporated cities and towns equal to the amount a city or town with a population of 1,500 or more persons would receive from the Urban Revenue Sharing Fund.

**Research and Development Tax Credit** – For tax year (TY) 2010, increases both the corporate and income research tax credits from 20 percent to 22 percent of qualified expenses up to \$2.5 million and 13 percent of the excess of \$2.5 million. For TY 2011 and each tax year thereafter through TY 2017, increases both the corporate and income research tax credits from 22 percent to 24 percent of qualified expenses up to \$2.5 million and 15 percent of the excess of \$2.5 million. Restores the computation of the credit to TY 2008 methodology beginning TY 2018.

**Department of Public Safety and Highway Funds** – For FY 2008-2009, suspends the statutory caps limiting the level of Highway User Revenue Fund monies and State Highway Fund monies available to fund Department of Public Safety highway patrol costs.

**Arizona Department of Revenue (DOR)** – Requires, retroactive to July 1, 2008, the Joint Legislative Budget Committee (JLBC) to review, before DOR executes any extension or modification of the Business Reengineering/Integrated Tax System contract that will increase the contractor's share of gain-sharing proceeds from state revenues during FY 2008-2009.

Allows DOR to utilize up to \$1.57 million to pay data center charges after review of an expenditure plan by JLBC.

~~postsecondary education commission; duties~~ (NOW: budget reconciliation; budget procedures) (H.B. 2462) – Chapter 291

**Arizona Department of Commerce (ADOC)** – Reduces, from \$25,000,000 to \$22,500,000, the appropriation from the state General Fund (GF) in FY 2008-2009 for deposit into the Twenty-first Century Competitive Initiative Fund (Fund), and further deposits the same money from the Fund into the Commerce and Economic Development Commission (CEDC). Increases, from \$25,000,000 to \$27,500,000, the appropriation from the state GF in FY 2010-2011 for deposit into the Fund, and further deposits the same money from the Fund to the CEDC. Authorizes nonstate cash or auditable cash equivalent governmental investments, in addition to private or philanthropic cash or auditable cash equivalent investments, to be used to meet the match requirement to expend Fund monies. Limits contributions from governmental investments and other auditable cash equivalent contributions to no more than 50 percent of the match requirement.

Increases, from \$180,000 to \$337,700, the amount allocated to ADOC in FY 2008-2009 to administer the Motion Picture Tax Incentive Program and authorizes the expenditure of these monies to increase the number of full-time equivalent positions from two to six.

**Department of Emergency and Military Affairs** – Reduces, from \$4,000,000 to \$3,500,000, the aggregate amount of all liabilities that may be incurred during a declaration of emergency in FY 2008-2009.



## **APPROPRIATIONS COMMITTEE (Cont'd.)**

***Arizona State Retirement System (ASRS)*** – Exempts from lapsing, retroactive to July 1, 2008, the amount appropriated to the ASRS Information Technology Plan special line item in FY 2004-2005 through June 30, 2009.

***Corrections Officer Retirement Plan (CORP)*** – Changes, from July 1, 2009, to the general effective date, the date that CORP member contribution rates, except for dispatchers, increases from 7.96 percent to 8.41 percent.

***Secretary of State*** – Prohibits, retroactive to March 1, 2008, the Secretary of State from implementing the provisions or rules relating to the registration of professional employer organizations before July 1, 2010.

***Vehicle License Tax (VLT)*** – Enables county VLT monies to be used for any purpose related to transportation as determined by the board of supervisors.

***Department of Weights and Measures (DWM)*** – Increases, from \$500 to \$1,000, the maximum civil penalty a person be assessed by DWM for violating a licensing requirement or any other DWM rule. Increases, from \$5,000 to \$10,000, the aggregate amount of civil penalties that may be assessed by DWM for any 30-day period at any business location. Exempts DWM from rulemaking requirements for the purpose of raising civil penalties for a period of one year from the general effective date.

***Government Information Technology Agency*** – Increases, retroactive to July 1, 2008, from .15 percent to .20 percent, the pro rata share of technology costs charged to agencies.

***Fees For Services*** – Authorizes the director of each specified agency to raise fees in FY 2008-2009 for agency services. Intends additional revenues generated by the fee increases not to exceed the corresponding amounts:

- Department of Public Safety – \$7,800,300
- Department of Agriculture – \$1,100,000
- Department of Environmental Quality – \$600,000
- Department of Health Services – \$600,000
- State Land Department – \$600,000
- Radiation Regulatory Agency – \$400,000

Exempts these agencies from rulemaking requirements for a period of one year from the general effective date for the purpose of raising fees. Enables, as the result of a fee increase by a specified agency, a county to meet any statutory funding requirement from any source of county revenue, including funds of any countywide special taxing district in which the board of supervisors acts as the board of directors. Excludes county contributions that are made as the result of a fee increase by any of the specified agencies from county expenditure limitations.

***Federal Funds*** – Requires, retroactive to May 1, 2008, any unrestricted federal monies received from May 1, 2008, through June 30, 2009, to be deposited in the state GF for the payment of essential governmental services.

***Accounting Procedure*** – Requires any nonlapsing monies appropriated from the state GF that remain unexpended and unencumbered at the close of FY 2008-2009 to be counted as part of the closing balance.

## APPROPRIATIONS COMMITTEE (Cont'd.)

~~biofuels conversion program~~ (NOW: budget adjustments; fiscal year 2007-2008) (H.B. 2620) – Chapter 53

Upon signature of the Governor, April 18, 2008, makes statutory and session law changes necessary to implement the adjusted FY 2007-2008 state General Fund (GF) budget. The bill reduces GF operating expenses, transfers monies from various other funds to the GF, reverts unspent and unencumbered balances and delays and reduces appropriations in order to reconcile an anticipated FY 2007-2008 state GF shortfall. The bill also makes supplemental appropriations to several state agencies.

Reduces the FY 2007-2008 appropriations made from the GF to the following budget units by the corresponding amounts listed below:

AGENCY	AMOUNT
Department of Administration (ADOA)	(\$1,484,800)
Department of Agriculture	(600,000)
Office of Administrative Hearings	(4,500)
Commission on the Arts	(100,000)
Attorney General	(500,000)
Biomedical Research Commission	(1,000,000)
State Capitol Postconviction Defender Office	(15,000)
Department of Commerce	(1,850,000)
Corporation Commission	(175,000)
Department of Corrections (ADC)	(19,416,900)
Arizona Criminal Justice Commission	(1,000,000)
Department of Economic Security (DES)	(12,550,000)
Arizona Department of Education (ADE)	(50,050,000)
Department of Environmental Quality (ADEQ)	(600,000)
Governor's Office of Equal Opportunity	(13,000)
State Board of Equalization	(14,000)
Board of Executive Clemency	(60,000)
Department of Financial Institutions	(200,000)
Department of Fire, Building and Life Safety	(300,000)
Arizona Geological Survey	(60,000)
Government Information Technology Agency	(600,000)
Office of the Governor	(225,000)
Governor's Office of Strategic Planning and Budgeting (OSPB)	(69,400)
Department of Health Services (DHS)	(4,907,300)
Arizona Historical Society	(80,000)
Prescott Historical Society	(15,000)
Arizona Commission of Indian Affairs	(5,000)
Department of Insurance	(435,500)
Judiciary – Supreme Court	(447,800)
Judiciary – Court of Appeals	(45,000)
Judiciary – Superior Court	(653,500)
Department of Juvenile Corrections	(1,054,200)
State Land Department	(1,200,000)
Law Enforcement Merit System Council	(2,000)
Legislature – Auditor General	(563,700)
Legislature – House of Representatives	(370,000)
Legislature – Joint Legislative Budget Committee (JLBC)	(90,000)
Legislature – Legislative Council	(171,000)
Legislature – Arizona State Library, Archives and Public Records	(233,000)
Legislature – Senate	(256,000)

## APPROPRIATIONS COMMITTEE (Cont'd.)

Department of Liquor Licenses and Control	(150,000)
Department of Mines and Mineral Resources	(25,000)
Arizona State Parks Board	(345,000)
Arizona Pioneers' Home	(63,000)
Department for Postsecondary Education	(3,700,000)
Department of Public Safety (DPS)	(1,121,100)
Arizona Department of Racing	(150,000)
Radiation Regulatory Agency	(80,000)
State Real Estate Department	(230,800)
Department of Revenue	(2,393,300)
School Facilities Board	(8,000,000)
Secretary of State	(138,000)
State Board of Tax Appeals	(6,300)
Office of Tourism	(1,000,000)
Department of Transportation (ADOT)	(2,000)
State Treasurer	(169,000)
Arizona Board of Regents	(875,000)
Universities – All Campuses	(14,700,000)
Arizona State University – Main Campus	(5,250,000)
University of Arizona – Main Campus	(5,250,000)
Department of Weights and Measures	(100,000)

Transfers to the GF, before July 1, 2008, the following amounts of monies from the corresponding funds or sources:

FUND SOURCE	AMOUNT
Accountancy Board Fund	\$2,056,000
Acupuncture Board Fund	100,000
Certificate of Participation Fund	1,266,700
Construction Insurance Fund	4,170,200
Motor Vehicle Pool Revolving Fund	3,237,500
Retiree Accumulated Sick Leave Fund	3,483,900
ADOA – Risk Management Revolving Fund	6,614,400
State Employee Suggestion Program Award Fund	63,100
Management Services Division Plan Deposits Fund	44,400
Arizona Grain Research Fund	80,000
Arizona Citrus Research Council Fund	40,000
Seed Law Fund	25,000
Aquaculture Fund	20,000
Arizona Iceberg Lettuce Research Council Fund	41,400
Commodity Promotion Fund	30,000
Pesticide Fund	15,000
Fertilizer Materials Fund	300,000
Children's Health Insurance Program Fund	1,506,200
Board of Appraisal Fund	537,900
Anti-Racketeering Revolving Fund	500,000
Prosecuting Attorney Council Fund	1,000,000
Board of Barbers Fund	400,000
Chiropractic Board Fund	100,000
Job Training Fund	13,000,000
Military Installation Fund	300,000
Registrar of Contractors Fund	2,066,300
Utility Regulation Revolving Fund	1,680,300
ADC – Revolving Fund	800,000

## APPROPRIATIONS COMMITTEE (Cont'd.)

ADC – Transition Office Fund	800,000
ADC – Transition Program Drug Treatment Fund	1,300,000
ADC – Criminal Justice Enhancement Fund (CJEF) Distributions Fund	1,000,000
Board of Cosmetology Fund	3,091,800
Arizona Criminal Justice Commission (ACJC) – DUI Abatement Fund	1,200,000
ACJC – Victims Compensation Fund	2,000,000
Telecommunication Fund for the Deaf	5,553,600
Dental Board Fund	4,200,000
Spinal and Head Injuries Trust Fund	2,000,000
Arizona Training Program – Phoenix Fund	1,600,000
DES – Mesa Land Fund	400,000
Special Education Fund	15,500,000
ADE – Internal Services Fund	525,100
English Learner Class Personnel Bonus Fund	200,000
State Armory Property Fund	100,000
ADEQ – Recycling Fund	1,097,100
Clean Air In-Lieu Fee Account and Arizona Clean Air Fund Balance Fund	5,088,700
Underground Storage Tank Revolving Fund	28,419,700
Water Quality Assurance Revolving Fund	3,000,000
Arizona Escrow Guaranty Fund	1,000,000
Funeral Directors & Embalmers Fund	100,000
Game and Fish Watercraft License Fund	4,732,700
Game and Fish Department – Off-Highway Vehicle Recreation Fund	395,000
Game and Fish Fund	2,827,600
Livestock/Breeders Award Fund	2,000,000
DHS – Intergovernmental Agreements	17,189,900
Emergency Medical Services Operating Fund	6,200,000
DHS – Indirect Cost Fund	6,100,000
Substance Abuse Treatment Fund	1,500,000
DHS – Indirect Cost Recovery Fund	10,500
Serious Mental Illness Fund	43,400
DHS – Internal Services Fund	107,800
Vital Records Electronic Systems Fund	500,000
Hearing and Speech Professionals Fund	400,000
Medical Services Stabilization Fund	138,700
Tobacco Tax and Health Care Fund – Health Education Account	2,000,000
Housing Program Fund	2,775,900
Housing Trust Fund	10,244,000
Housing Development Fund	364,000
Industrial Commission Administrative Fund	3,530,900
Juvenile Delinquent Reduction Fund	1,552,900
Judicial Collection Enhancement Fund	1,500,000
Supreme Court CJEF Disbursement Fund	1,500,000
Arizona Lengthy Trial Fund	1,000,000
Criminal Justice Enhancement Fund	300,000
State Education System for Committed Youth Fund	500,000
Liquor License Special Collections Fund	500,000
State Lottery Fund	5,996,400
Arizona Medical Board Fund	1,350,000
Medical Student Loan Fund	179,000
Naturopathic Physician Examiners Board Fund	1,000,000
Nursing Board Fund	75,000
Osteopathic Board Fund	250,000
Drug Treatment and Education Fund	2,000,000
Off-Highway Vehicle Recreation Fund	1,500,000

## APPROPRIATIONS COMMITTEE (Cont'd.)

State Lake Improvement Fund	4,100,000
Board of Pharmacy Fund	2,500,000
Physical Therapy Board Fund	100,000
Auto Fingerprint Identification Fund	300,000
DNA Identification System Fund	600,000
Department of Public Safety Licensing Fund	500,000
Highway Patrol Fund	700,000
County Fair Racing Fund	125,000
Breeders Award Fund	150,000
Condominium Recovery Fund	5,000
Real Estate Recovery Fund	225,000
Estate and Unclaimed Property Fund	1,132,800
Liability Set-off Fund	1,000,000
School Improvement Revenue Bond Debt Service Fund	1,000,000
Economic Strength Project Fund	2,000,000
Motor Vehicle Liability Insurance Enforcement Fund	5,400,000
State Aviation Fund	18,100,000
ADOT Equipment Fund	3,100,000
Vehicle Inspection and Title Enforcement Fund	1,100,000
Funding Given to ADEQ for State Trust Land Settlement	2,025,500
Budget Stabilization Fund	487,000,000

***Budget Stabilization Fund (BSF/“Rainy Day Fund”) Conditional Transfer*** – By July 29, 2008, the respective staff directors of the JLBC and the OSPB are to jointly determine the preliminary FY 2007-2008 GF ending balance. If the balance is less than \$0, the State Treasurer shall transfer an amount equal to the negative ending balance plus \$1 million from the BSF to the GF.

***School District State Aid Apportionment and Conditional Appropriation*** – Instructs the State Board of Education to defer until August 1, 2008, \$272 million in Basic State Aid and additional state aid payments that would be otherwise apportioned to school districts on June 15, 2008. This deferral does not apply to charter schools.

By July 29, 2008, the respective staff directors of the JLBC and the OSPB are to determine the preliminary FY 2007-2008 GF ending balance. If the balance is greater than \$1 million, the amount above \$1 million is appropriated to the ADE for Basic State Aid and additional state aid entitlement for FY 2008-2009.

***School Facilities Board (SFB)*** – Reduces the FY 2007-2008 GF appropriation to the SFB in the amount of \$43,141,700.

***Department of Public Safety*** – Transfers \$42 million from the Statewide Transportation Acceleration Needs Account (STAN) from ADOT to DPS for highway patrol costs in FY 2007-2008. The bill further requires a corresponding GF appropriation made to DPS to remain unexpended and unencumbered.

employer sanctions (H.B. 2745/S.B. 1374) – Chapter 152 E

Effective May 1, 2008, makes numerous changes pertaining to employer sanctions and identity theft. The major provisions include:

## **APPROPRIATIONS COMMITTEE (Cont'd.)**

***Employer Sanctions*** – Limits the prohibitions against knowingly or intentionally employing an unauthorized alien to employees hired after December 31, 2007. Stipulates that independent contractors are employers, rather than employees, and that an employer that knowingly or intentionally contracts with an unauthorized alien or with a person who employs or contracts with an unauthorized alien violates the employer sanctions laws. The measure modifies language pertaining to complaints and the prosecution of and penalties for violations, and establishes an affirmative defense for employers that comply with federal employment eligibility verification requirements.

Requires the Arizona Attorney General to: 1) prescribe complaint forms; 2) request a list of Arizona employers that are registered with the federal E-Verify Program (E-Verify) every three months; and 3) establish a Voluntary Employer Enhanced Compliance Program (Program). An employer that desires to enroll in the Program must submit a signed sworn affidavit agreeing to verify employees through E-Verify or the federal Social Security Number Verification Service. A Program participant does not violate the employer sanctions laws under specified circumstances.

Establishes a civil penalty for cash-paying employers that do not comply with the laws pertaining to income tax withholding, new hire reporting, employment security and workers' compensation. The measure also requires all employers to provide proof of participation in E-Verify in order to receive an economic development incentive from a government entity.

Prohibits, after September 30, 2008, a government entity from awarding a contract to any contractor or subcontractor that fails to use E-Verify as required. Government entities must ensure that each contractor and subcontractor complies with federal immigration law and uses E-Verify.

***Identity Theft*** – Establishes as a class 4 felony the crime of knowingly accepting the identity of another person or entity. Expands the definitions of trafficking in the identity of another person and identity theft.

***Miscellaneous*** – Prohibits, after September 30, 2008, an agency or political subdivision from issuing a license to an individual who does not show specified documentation that establishes the individual's legal presence, except as otherwise specified. Provides for the severability of the provisions.

## **LEGISLATION VETOED**

~~air quality; idling; study committee~~ (NOW: FY 2007-2008 state hiring; moratorium) (H.B. 2043) – VETOED

Prohibits state budget units from using state General Fund monies to hire or promote employees for the remainder of FY 2007-2008, unless the employee is necessary for the protection of public health and safety or the collection or investment of state revenues. Exempts the expenditure of federal funds from the provisions of the moratorium.

In her veto message, the Governor cites Article III of the Arizona Constitution indicating that H.B. 2043 improperly imposes legislative authority on powers belonging to other branches of government. The message further indicates that the measure is unnecessary for two reasons: 1) the general effective date associated with this legislation prevents it from affecting the FY 2007-2008 budget shortfall; and 2) the agencies identified by the legislation are already operating under hiring restrictions.

## **APPROPRIATIONS COMMITTEE (Cont'd.)**

fiscal year 2007-2008; budget adjustments (H.B. 2857) – VETOED

Requires specified amounts of monies appropriated to state agencies in FY 2007-2008 to remain unexpended and unencumbered, and places limitations on the expenditures of specified funds for the remainder of FY 2007-2008. The total amount of identified potential savings is \$582 million. The bill also makes supplemental appropriations.

The Governor's veto message indicates that the measure fails to comprehensively address, in a bipartisan manner, the state's FY 2007-2008 budget shortfall, which is an estimated \$1.2 billion.

# **Commerce & Economic Development Committee**

**Senator Barbara Leff, Chairman**



**Leah Birk, Research Analyst**

**Justin Weaver, Assistant Analyst**

**Sheila Gholkar, Intern**



# COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE

## LEGISLATION ENACTED

professional license extensions; military members (S.B. 1006) – Chapter 183

SEE GOVERNMENT COMMITTEE.

counterfeit marks; intellectual property (S.B. 1038) – Chapter 121

Decreases the thresholds by which the penalties for violations of unlawful copying or sale of sounds or images from recording devices involving articles that contain sound recordings are determined. Requires the court to order a defendant who is convicted of unlawful copying or sale of sounds or images from recording devices to make restitution to a party that has suffered injury resulting from the violation.

court reporter certification (S.B. 1050) – Chapter 54

Grants authority to the Arizona Supreme Court to determine, by rule, the duration of court reporter certification, rather than a statutory annual duration, and eliminates the termination date of the Certified Court Reporter Program.

occupational safety; employee death; penalties (S.B. 1125) – Chapter 187

Requires, in the event of the death of an employee who does not have any dependents, the employee's estate to receive the additional \$25,000 penalty that is assessed against an employer for willful or repeated violations of any occupational safety and health regulation resulting in the employee's death or permanent disability.

AHCCCS; DES; new hires directory (S.B. 1133) – Chapter 79

Allows the Department of Economic Security and the Arizona Health Care Cost Containment System Administration to use the state directory of new hires to verify members' eligibility for Medicaid programs.

~~security guards; technical correction~~ (NOW: purchaser dwelling actions; definition) (S.B. 1176) – Chapter 229

Modifies the definition of "seller," for purposes relating to purchaser dwelling actions, to exclude a real estate broker or salesperson who provides services in connection with the resale of a dwelling following its initial sale.

certified public accountants; reciprocity privilege (S.B. 1227) – Chapter 295

Makes various changes to the statutes regulating accountants; the following are some of the notable provisions:

## COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)

***Limited Reciprocity Privilege*** – Permits a non-Arizona resident who has a principal place of business outside of Arizona to practice as a certified public accountant (CPA) in Arizona under the limited reciprocity privilege for an unlimited amount of time, without approval by the Arizona State Board of Accountancy (Board), if the individual meets certain requirements. Additionally an out-of-state firm may practice accounting in Arizona without registering if the firm is owned by or employs a limited reciprocity privilege holder and meets other specified requirements.

***Registration and Certification*** – Permits the Board to require registrants to report the imposition of any discipline on the registrant's right to practice. Prohibits a CPA or public accountant (PA) from requesting cancellation of a certificate if a complaint has been filed against the CPA or PA. The measure also permits a firm to cancel its registration by filing a written request, subject to limitations, and stipulates that a firm's registration expires if it was suspended due to failure to register properly and is not reinstated within 12 months.

***Board Membership*** – Replaces one of the current public members on the Board whose term ends on July 3, 2009, after the end of the current term, with a public member who will serve a three-year term, which will stagger the terms of the public members.

### charitable funds; management (S.B. 1228) – Chapter 30

Repeals the statutes relating to investment for eleemosynary purposes and replaces them with modified statutes regarding the management of charitable funds. Specifies new factors an institution must consider when managing and investing an institutional fund and when determining to appropriate or accumulate an endowment fund. The measure modifies an institution's ability to delegate authority pertaining to a fund and establishes the responsibilities of both the institution and the agent to whom authority is delegated. It also modifies an institution's ability to apply to the court for the modification or release of impracticable or wasteful restrictions on the use of a fund, and allows institutions that manage and invest small and old funds to modify or release such restrictions after notifying the Arizona Attorney General, without application to the court.

### real estate department; designation removal (S.B. 1232) – Chapter 231

Eliminates an applicant's or licensee's ability to obtain a license specializing in the sale of businesses from the Arizona Department of Real Estate (ADRE). Prohibits, retroactive to January 1, 2008, ADRE from releasing a licensee's or applicant's residential address, telephone number or electronic mail address, except as otherwise specified, rather than permitting a licensee to request this information to be kept confidential.

### timeshares; trustee's sales; foreclosures (S.B. 1258) – Chapter 260

Allows the use of trustee's sales of timeshare interests to enforce assessments that are delinquent for one year. An association or managing entity (association) that desires to cause a trustee's sale must: 1) prepare, execute and acknowledge a notice of delinquency; 2) record the notice; 3) mail a copy of the notice to the owners by certified mail and include, if the owner acquired fee title before January 1, 2009, a statement informing the owner of the right to prevent a trustee's sale; and 4) post a summary of the notice on an owner notice board at the property. Prescribes the posting requirements for the notice of sale and the manner in which a trustee's sale must be executed.

## COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)

Allows an owner of a timeshare estate who acquired fee title before January 1, 2009, to prevent a trustee's sale for delinquent assessments by signing and returning by certified mail, within 30 days, the notice of election to prevent the trustee's sale.

### corporations and LLCs (S.B. 1410) – Chapter 314

Modifies requirements pertaining to the filing of documents, including: 1) requiring the Arizona Corporation Commission (ACC) to file a document if the document satisfies the statutory requirements and the corporation or limited liability company (LLC) is in good standing, rather than only if the document satisfies the statutory requirements; 2) permitting, rather than requiring, the ACC to file a corporation's articles of dissolution or a document that is required to bring a corporation or LLC into good standing; and 3) removing, in various statutes, the requirement that a corporation, nonprofit corporation (nonprofit) or LLC file an affidavit evidencing the publication of a filed document. Removes the requirement that a Certificate of Disclosure include the Social Security number of any person subject to disclosure and a brief statement disclosing whether certain individuals served in a similar capacity on the charter revocation of any other corporation. The measure also removes the requirement that a nonprofit include a statement of its financial condition in its annual report.

Permits a parent LLC and its subsidiary to be formed at the same time. Makes changes relating to the termination of an LLC, including reducing the amount of information that must be included in an LLC's articles of termination and specifying that the managers in office at the time an LLC terminates, or the members, may take any action that is necessary to wind up and liquidate the LLC's affairs. Additionally, the measure requires the ACC, if an LLC has been administratively dissolved and does not apply for reinstatement within six months after dissolution, to release the company name for use. If an LLC applies for reinstatement and its name has already been adopted, the LLC must include with the application articles of amendment that adopt a new name.

The measure also exempts specified entities from the requirement that a person who transacts business in Arizona under a fictitious name or designation that does not show the name of the business owner or the name of the corporation record a certificate stating the name and address, and expands the persons or entities that may serve as the agent for service of process on a limited partnership to include an LLC that is authorized to do business in Arizona.

### contractor regulation (S.B. 1417) – Chapter 261

Requires the Registrar of Contractors (Registrar) to order a summary suspension of a general remodeling and repair contractor's license if the contractor fails to secure workers' compensation insurance or if the public health and safety requires immediate action. Prohibits a general remodeling and repair contractor from accepting new projects if the contractor is the subject of five unresolved and substantiated abandonment complaints within 12 months, until the number of complaints falls below five in a year.

Limits those who can automatically cause the Registrar to investigate a contractor's actions by filing a written complaint, from any person, to an owner or contractor that is party to a construction contract or a person who suffers a material loss or injury as a result of a contractor's failure to perform work in a professional and workmanlike manner or in accordance with applicable codes and standards. Prevents the Registrar from issuing a citation for failure to perform work to a contractor under specified circumstances and removes the Registrar's ability to issue a citation for

## COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)

the commission of an act that is cause for suspension or revocation of a license to a contractor on the written request of the complainant.

### regional attraction districts (S.B. 1450) – Chapter 297

Permits a city with more than 10,000 but less than 20,000 persons in a county with more than 300,000 but less than 400,000 persons to establish a Regional Attraction District (District) on petition of the owners of at least 200 acres of real property in the proposed District and after a public hearing. If formed, the District must provide for the construction, financing, use, furnishing, improvement, operation, marketing, promotion and maintenance of a regional attraction venue that has a themed design; it may not operate the venue or any improvement or facility located in the District as a business, other than as a lessor. District property is exempt from ad valorem property taxes; however, the District's Board of Directors (Board) must make payments in lieu of property taxes for any District property located outside of the venue.

Permits the District, if it receives at least \$100 million of legally enforceable financial participation commitments from private nongovernmental entities, to authorize by resolution and issue up to \$750 million in negotiable revenue bonds to provide for venue purposes. The bonds must be fully insured or guaranteed. The District must pledge at least part of its revenues to secure the bonds or other financial obligations.

Permits the District to levy an excise tax of no more than ten percent on business activity within the District above any state or local transaction privilege and use taxes. The State Treasurer must remit the net revenues collected to the District each month for deposit in the District's general fund. The tax expires when all bonds, interest and other related charges have been paid.

The measure establishes a five-member Board to oversee the District; the Board is subject to the statutes pertaining to public meetings, public records and conflicts of interest, and must comply with certain reporting and independent audit requirements. It also requires the Office of the Auditor General to conduct a performance audit of the District 35 years after the initial issue of bonds and terminates the District and repeals the statutes either five years after the delivery of the performance audit or if the Board fails to issue bonds on or before December 1, 2015.

### notary public; name change. (S.B. 1486) – Chapter 91

Permits a notary public whose surname changes for any reason, rather than only due to marriage, to continue using the official seal and commission in the notary public's prior name until that commission expires, rather than applying for a new notary commission under the new name.

### professions; occupations; initial regulation (S.B. 1502) – Chapter 132

Establishes a sunrise process for the initial regulation of nonhealth professions and occupations. Requires an applicant group seeking regulation to submit a written report that addresses the required factors for regulation to the Joint Legislative Audit Committee for review by a legislative committee of reference, which must make a recommendation. Any regulation of a profession or occupation must be for the exclusive purpose of protecting the public interest and is limited to specified circumstances.

## COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)

### home inspectors; rules; standards committee (H.B. 2077) – Chapter 48

Reduces the membership threshold, from 50 to 40, for a home inspector organization to qualify to submit names for membership on the Home Inspector Rules and Standards Committee.

### ~~park model trailer spaces~~ (NOW: landlord charges; utilities) ( H.B. 2123) – Chapter 96

Establishes guidelines for the charging of utilities to recreational vehicle (RV) owners. Permits a landlord to charge separately for: 1) gas, water or electricity by either installing a submetering system or allocating the charges separately through a ratio utility billing system, except as otherwise specified; 2) removal of waste, garbage, rubbish, refuse and trash; and 3) sewer services. A landlord who has overcharged tenants must refund the amount to the tenants who were overcharged and who reside in the park at the time the overcharge is determined, and establishes a process by which a tenant may dispute a landlord's noncompliance with the guidelines. The measure also requires a landlord to provide a statement of proposed interruption of utility service to the tenants within a reasonable time, except in the case of an emergency, and prohibits the state from adopting rules that are more stringent than those authorized by the federal government for the purpose of regulating RV parks as public water systems.

### unemployment insurance; liability; liens; service (H.B. 2206) – Chapter 36

Requires the Department of Economic Security (DES) to determine due, at any time, any contributions, interest or penalties for wages and periods that the Internal Revenue Service assesses, against which credit may be taken for required state contributions. Extinguishes an employer's obligation to pay any delinquent unemployment tax or related amount six years after the amounts were determined due, with exceptions. The measure also makes various changes relating to liens for unpaid contributions, including allowing DES to release a lien, subordinate a lien to other liens or withdraw a lien if certain requirements are met.

Allows DES to notify an employer electronically or by regular mail, rather than certified mail, of a determination relating to the state unemployment tax or the employer's contribution rate.

### ~~notification; complaint; registrar of contractors~~ (NOW: prime contracting TPT; deduction) (H.B. 2356) – Chapter 303

Retroactive to September 1, 2006, modifies the current deduction for development fees from state and municipal transaction privilege taxes (TPT) levied against prime contractors or subcontractors (contractors), providing a deduction for an amount equal to the development fees paid plus the amount credited to a contractor for the construction of, contribution to or dedication of real property for providing necessary public services, rather than the amount of development fees paid to the state or local government. The amount of the deduction may not exceed the value of the development fees actually imposed. Contains a retroactivity clause that states the act intends to clarify, not expand, the existing TPT deduction for contractors.

### materialmen's liens; surety bonds (H.B. 2474) – Chapter 112

Establishes that a surety bond recorded to discharge a mechanic's lien also serves as the release bond for a stop notice or bonded stop notice made with respect to the same materials and labor. Requires a release bond for a stop notice or bonded stop notice to be an amount equal to 150 percent of the amount claimed in the notice, rather than 125 percent of the amount claimed in the

## COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)

notice plus any reasonable expenses. Increases the required amount of a bond that accompanies a bonded stop notice from 125 percent to 150 percent of the amount claimed. A judgment for the claimant on a bond is limited to the penal sum of the bond and a claimant is entitled to any amount excess of the penal sum of the bond.

### ignition strength of cigarettes; regulation (H.B. 2483) – Chapter 159 RFE

Subject to the requirements for enactment (Proposition 108), which requires the affirmative vote of at least two-thirds of the members of each house of the Legislature, establishes, beginning August 1, 2009, a new standard for cigarette ignition propensity. Requires, with specified exceptions, cigarettes to be tested according to the American Society of Testing and Materials “Standard Test Method for Measuring Ignition Strength of Cigarettes” to determine a cigarette’s compliance with the performance standard. Manufacturers must: 1) certify to the State Fire Marshal (FM) that each cigarette complies with the performance standard; 2) recertify each cigarette every three years; and 3) mark certified cigarettes. The FM may require manufacturers to pay a \$250 fee for each certified brand family of cigarettes.

Requires the FM to implement the requirements according to the New York Fire Safety Standards for Cigarettes. Permits the Arizona Department of Revenue to inspect cigarettes for compliance and the Arizona Attorney General (AG) to examine the records of any person in possession, control or occupancy of any premises where cigarettes are placed, stored, sold or offered for sale, as well as any cigarettes on the premises. Establishes civil penalties for violations and subjects any cigarettes sold or offered for sale that do not comply with the performance standard to forfeiture and destruction. Permits the FM or the AG to file an action in the superior court for injunctive relief or to recover any costs or damages to the state due to a violation.

Preempts political subdivisions from adopting different standards. Requires the FM to: 1) review the effectiveness of the testing requirements and report to the Legislature every three years and 2) notify the Governor, the Speaker of the House of Representatives and the President of the Senate immediately after a federal standard that preempts the state standard takes effect. Repeals the state standard if a federal law that preempts the state standard takes effect.

### insurance contracts; small employer coverage (H.B. 2658) – Chapter 118

Modifies the circumstances under which: 1) a health care insurer may nonrenew or discontinue an individual’s disability insurance coverage and 2) an accountable health plan may refuse to renew or terminate a health benefits plan. Classifies a group disability policy issued in any state as a health benefits plan subject to the statutes pertaining to accountable health plans. Specifies that coverage issued to voluntary small employer risk pools qualifies for the premium tax exemption that accountable health plans receive for issuing health benefits plans to small employers.

### Sudan; investments; business operations; prohibition (H.B. 2705/S.B. 1366) – Chapter 1

Requires public funds, defined as the Arizona State Retirement System, the Public Safety Personnel Retirement System, the Elected Officials’ Retirement Plan, the Corrections Officer Retirement Plan and the State Treasurer, to divest securities of companies with scrutinized business operations in Sudan, with specified exceptions. Requires public funds to: 1) assemble a scrutinized companies list; 2) update and report the list annually; 3) divest fully in any company within 18 months after its appearance on the list; and 4) report annually on any actions taken. Prohibits public funds from acquiring securities of companies on the scrutinized companies list.

## COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)

Deems, with respect to actions taken in good faith compliance with this act, that a public fund, its board of directors and individual board members, agents, attorneys, trustees, officers, employees, custodians, fiduciaries, research firms and investment managers under contract with the public fund are: 1) exempt from any conflicting statutory or common law obligations; 2) immune from any liability; and 3) indemnified from the state General Fund and held harmless by the state.

Requires contractors to certify in procurement contracts with Arizona or any of its political subdivisions that the contractor does not have scrutinized business operations, with exceptions. Allows, due to a false certification, the state or a political subdivision to terminate a contract and the state's Central Procurement Officer (CPO) to suspend a contractor from eligibility for procurement contracts with the state. Requires the CPO to create a list of parties excluded from procurement and to report within one year on any actions taken.

Repeals the requirements on July 13, 2013, or earlier. Includes legislative findings and declarations.

employer sanctions (H.B. 2745/S.B. 1374) – Chapter 152 E

SEE APPROPRIATIONS COMMITTEE.

liquor wholesalers; promotional items. (H.B. 2826) – Chapter 226

Allows a liquor wholesaler to furnish promotional items, without cost, to an on-sale retailer, limited to a total market value of \$500 per calendar year.

workers' compensation; claims (H.B. 2828) – Chapter 169

Prohibits the reopening of a workers' compensation claim that was previously denied if the notice of claim status or determination became final and there is no statutory allowance for a late hearing request. Requires claims for improper payment or denial of temporary partial disability benefits to be filed within two years after the claimed entitlement accrues or an award for benefits becomes final. Contains intent language.

### **LEGISLATION VETOED**

~~municipal development fees; technical correction~~ (NOW: municipal development fees; procedures) (S.B. 1406) – VETOED

Makes various changes to the assessment of municipal development fees beginning January 1, 2009, and to the assessment of county development fees.

The Governor's veto message indicates that the measure places further restrictions on municipalities that seek to make developers assist in paying the public costs of growth through development fees. It also indicates that developers propose procedural changes to the way development fees are assessed every session and that rather than address these issues on a piecemeal basis, Arizona would benefit from an agreed upon, comprehensive approach to development fees.

# **Education K-12 Committee**

**Senator Karen Johnson, Chairman**



**Dawn Wallace, Research Analyst**

**Alisa Yasin, Intern**



# EDUCATION K-12 COMMITTEE

## LEGISLATION ENACTED

TAPBI program; administrative salaries (S.B. 1081) – Chapter 155

Requires each Technology Assisted Project-Based Instruction (TAPBI) school to include in its annual report to the State Board of Education and the Joint Legislative Budget Committee a listing of salaries, titles and job descriptions for administrators who are employed or contracted at the school.

~~bake sales; regulation; exemption~~ (NOW: appropriation; English language learners) (S.B. 1096) – Chapter 34 W/S

Appropriates \$40.7 million from the state General Fund in FY 2008–2009 to the Arizona Department of Education for deposit into the Arizona Structured English Immersion Fund (Fund) to fund the models adopted by the Arizona English Language Learners Task Force. The monies in the Fund are exempt from lapsing and must be distributed on the same apportionment schedule as Basic State Aid to schools.

unorganized territory; adjacent school districts (S.B. 1172) – Chapter 27 E

Beginning April 14, 2008, requires an unorganized territory that reaches the statutory threshold required to join an adjacent school district to join both the elementary and union high school district if the adjacent school district identified for annexation is within the boundaries of a union high school district. If the adjacent school district is an elementary school district that is not within the boundaries of a high school district, the unorganized territory must join the elementary district, and the high school pupils from the unorganized territory must be educated in the same manner as the high school pupils located in the elementary school district.

charter schools; approved plans; renewal (S.B. 1215) – Chapter 56

Requires a charter school sponsor to notify a charter school that the charter is eligible for renewal at least 18 months prior to expiration of the existing charter. Also, a charter school electing to renew must file a renewal application at least 15 months before expiration of the existing charter.

schools; biometric information; prohibition (S.B. 1216) – Chapter 189

Prohibits a public school from collecting biometric information from a pupil unless the pupil's parent or guardian provides written permission. The bill requires a school to provide written notice, in a required format, of the intent to collect pupil biometric information to a parent or guardian at least 30 days prior to the collection.

~~joint common schools; technical correction~~ (NOW: education database; pupil privacy) (S.B. 1218) – Chapter 28

Requires the Arizona Department of Education to comply with the Family Educational and Privacy Rights Act when collecting or disclosing pupil records maintained in an education database.

## **EDUCATION K-12 COMMITTEE (Cont'd.)**

Prescribes requirements for maintaining the database in a manner that information is secure and confidential, including that the unique pupil identifier cannot be the pupil's Social Security number, or any variation thereof, and must not be identifiable by anyone other than the officials maintaining the database.

~~schools; diabetes treatment~~ (NOW: diabetes treatment; schools) (S.B. 1229) – Chapter 31

Allows a school district governing board or charter school governing body to adopt policies and procedures for pupils with diabetes, who are diagnosed by a licensed primary health professional or nurse practitioner, to manage their diabetes in the classroom, on school grounds and at school-sponsored events. The bill further permits the governing board or body to create policies and procedures to designate two or more school employees to serve as voluntary diabetes care assistants to administer glucagon in an emergency situation under specific conditions. A school district governing board, a charter school governing body and their employees and any volunteer licensed health professional or nurse practitioner that trains the volunteer diabetes care assistants are exempt from civil liability if all policies and procedures are complied with and if all decisions made and actions taken are in good faith.

school safety; school misconduct (S.B. 1230) – Chapter 127 E

Effective April 29, 2008, increases the School Safety Program grant cycle from one fiscal year to three fiscal years.

compact; educational opportunity; military children. (S.B. 1334) – Chapter 86

Codifies the Interstate Compact on Educational Opportunity for Military Children (Compact). Also establishes the Interstate Commission on Educational Opportunity for Military Children (Commission) to create and enforce Compact rules and bylaws and requires the Commission to establish an Executive Committee to oversee Commission activities and administration. The Compact becomes effective and binding upon legislative enactment of the Compact in at least ten states no earlier than December 1, 2007.

school safety program; reserve officers (S.B. 1401) – Chapter 74

SEE APPROPRIATIONS COMMITTEE.

SDRC; small school district adjustment (S.B. 1443) – Chapter 200

Extends the operational date for a school district that unifies as a result of the School District Redistricting Commission (SDRC) plan. The bill also allows a school district that unifies as a result of the SDRC plan to continue to budget for the small school adjustment for the first four fiscal years of operation using a phase-down formula if one of the school districts combined into this new school district previously qualified for the small school district adjustment.

school pupils; alternative graduation requirements (H.B. 2008) – Chapter 202 W/O

Allows, retroactive to January 1, 2008, a pupil who fails to achieve a passing score on the high school Arizona Instrument to Measure Standards (AIMS) exam to augment his or her score by up to one quarter of the score if the pupil took the exam each time, successfully completed all coursework and credits required for graduation and participated in any academic remediation

## **EDUCATION K-12 COMMITTEE (Cont'd.)**

programs available in the pupil's school in the test areas where he or she failed to achieve a passing score. The maximum amount a pupil may augment his or her AIMS score is: 1) up to 25 percent in school years 2007-2008 and 2008-2009; 2) up to 15 percent in school year 2009-2010; and 3) up to 5 percent in school year 2010-2011 and each year thereafter.

~~DOA; energy conservation standards~~ (NOW: school employees; arrests; reporting) (H.B. 2042) – Chapter 212

Requires a public school employee or applicant who is arrested for a nonappealable offense that would preclude the individual from receiving a fingerprint clearance card to immediately notify his or her current or prospective employer. A public school employee who is convicted of any nonappealable offense that would preclude the individual from receiving a fingerprint clearance card or a dangerous crime against children or who has to register as a sex offender must surrender any state-issued certificate and fingerprint clearance card and further notify his or her employer of the conviction.

The State Board of Education must adopt rules to: 1) prohibit a person from certification until the person is no longer charged or is acquitted if the employee or prospective employee who is arrested fails to make the required notification; and 2) revoke a teaching certificate for at least ten years if a convicted employee violates the notification and surrendering of certificate and fingerprint clearance card requirements. Upon notice that an employee or volunteer at a public school requiring a fingerprint clearance card has been arrested or convicted of a nonappealable offense precluding the individual from obtaining a fingerprint clearance card or a dangerous crime against children or must register as a sex offender, the Department of Public Safety must notify each school district or charter school in the state of the suspension or revocation of the fingerprint clearance card.

e-learning task force (H.B. 2064) – Chapter 265

Expands the duties of the Arizona E-Learning Task Force (Task Force) to include additional recommendations to the Legislature related to e-learning instructional programs, teacher training, school funding and standardized data systems within the Arizona Department of Education. Directs the Senate and House of Representatives to conduct a review of the Task Force and recommend to the Governor, Legislature and Task Force by December 1, 2008, if the Task Force should be continued, revised, consolidated or terminated.

charter schools; academic contests fund (H.B. 2167) – Chapter 61

Allows charter schools to receive monies from the Academic Contests Fund.

~~regents; officers; technical correction~~ (NOW: budget reconciliation; education) (H.B. 2211) – Chapter 287 W/O

SEE APPROPRIATIONS COMMITTEE.

school pupils; admission; absences (H.B. 2368) – Chapter 267

Requires a school to notify the parent or custodian of a pupil in grades seven or eight who is absent from school without notice or authorization within: 1) two hours after the first class a pupil is absent, if the class is the pupil's first class of the day; or 2) five hours after the pupil's first absent class, if the class is not the pupil's first class of the day.

## EDUCATION K-12 COMMITTEE (Cont'd.)

Allows a school to deny admittance to a child who has graduated from high school with a recognized diploma.

school districts; notices; electronic publication (H.B. 2369) – Chapter 206

Eliminates school-by-school reporting of school district annual financial reports (AFR). The bill also grants the option to a school district to publish the AFR through a posting on the Arizona Department of Education's (ADE) website, which must provide a link from the school district's website to the ADE website.

school textbooks; alternative media producers (H.B. 2441) – Chapter 108

Requires the State Board of Education to designate alternative media producers to adapt existing standard print textbooks or to provide specialized textbooks, or both, for special education pupils in Arizona, and to post the designated list of producers on its website.

education accountability; crisis teams; receivership (NOW: schools; overexpenditure; crisis teams; receivership) (H.B. 2469) – Chapter 111 E

Effective April 28, 2008, delays the repayment period for overexpenditures for the Union Elementary, Saddle Mountain Unified and Peach Spring Unified school districts for nine years beginning in FY 2008-2009.

Effective July 1, 2008, the bill also does the following:

***Receivership*** – Permanently extends the ability of the State Board of Education (SBE) to appoint a receiver to a school district that is deemed insolvent or has grossly mismanaged its finances. The receivership statutes are further modified to: 1) expand the conditions under which a receiver may be appointed; 2) allow a receiver to begin duties immediately upon appointment; 3) require a receiver to submit quarterly progress reports within 90 days after submitting the initial 120-day report; 4) direct the SBE to review the receiver expenses and costs at least quarterly; 5) designate as confidential and not public record all information received and records or reports kept by the SBE during an investigation of a complaint against a receiver; and 6) prohibit a receiver from providing a severance or buy-out package to the school superintendent or chief financial officer of a school district placed in receivership.

***School District Overexpenditures*** – Requires a county school superintendent to notify the Arizona Department of Education (ADE) within two business days if a school district has committed an overexpenditure. ADE must subsequently provide written notice if sufficient budget capacity exists. If the school district does not resolve the overexpenditure or if the amount of the overexpenditure exceeds a specific threshold, the ADE is required to place the issue on a SBE agenda for consideration. After relevant testimony is provided during a public meeting, the SBE is required to take one of the following actions: 1) direct the ADE to monitor the school district; 2) assign a level one or level two fiscal crisis team to the school district; or 3) appoint a receiver to the school district. A county school superintendent, who does not provide the appropriate notice to the ADE of a school district overexpenditure, as well as the governing board members and appropriate personnel of a school district that are assigned a level two fiscal crisis team, must complete up to 12 hours of professional development training within 120 days of notification. A county school superintendent who fails to provide appropriate notification more than once and school district governing board

## EDUCATION K-12 COMMITTEE (Cont'd.)

members who fail to complete the required professional development may be prosecuted for nonfeasance in office and removed from office through a court order if found guilty.

***Reporting Requirements*** – Requires a school district that is assigned a fiscal crisis team or a receiver due to overexpenditures to submit fiscal management plans to the SBE and post these plans on the district website. The fiscal crisis team or the receiver of these school districts are required to submit quarterly progress reports based on the school district's fiscal management plan. The SBE must submit an annual compilation report on all school district fiscal management plans by December 31 to the Governor and Legislature.

***Miscellaneous*** – Requires the SBE to direct the Superintendent of Public Instruction to withhold up to ten percent of state monies and the corresponding budget capacity for each violation of the Uniform System of Financial Records.

~~real estate disclosure; training ranges.~~ (NOW: military reservations; board; accommodation schools (H.B. 2495) – Chapter 207 E

An emergency measure, retroactive to July 1, 2004, to increase the general budget limit and revenue control limit of an accommodation school having boundaries coterminous with a military reservation by an amount equal to the school's heavily impacted general impact aid monies. The bill allows the county school superintendent to authorize a budget increase similar to a K-3 override, without an election, if the accommodation school has sufficient ending cash balance to fund the budget increase. Additionally, the bill establishes a five-member reservation accommodation school board.

~~charter schools; transfer of credits~~ (NOW: transfer credits; notice; examination) (H.B. 2563/S.B. 1478) – Chapter 2

Requires a public school to accept credits earned in courses or instructional programs by a pupil who was previously enrolled at another public school. The bill allows a school district governing board or charter school governing body to adopt policies to determine and provide notice to a pupil regarding the assignment of transfer credits as either core or elective credits. Within ten days of notification, a pupil may take a test in a course in which core credit is denied, and, upon passage of the test, the public school is required to accept the transfer credit as a core credit.

schools; student teachers; tutors; fingerprinting (H.B. 2566) – Chapter 115 E

Beginning April 28, 2008, requires a student teacher or a contracted tutor to obtain a fingerprint clearance card prior to providing services directly to pupils.

schools; fingerprinting; contract employees (H.B. 2694) – Chapter 222

Requires a school district to obtain fingerprint checks of any contractor, subcontractor or vendor or any employee of the contractor, subcontractor or vendor who provides contract services on school property at least five times each month. A school district governing board must adopt policies that may exempt individuals who are unlikely to have direct, unsupervised contact with pupils from the fingerprint check requirement. The bill requires the Department of Public Safety (DPS) to conduct required state and national criminal records checks of noncertificated personnel and personnel who are not paid employees of the school district and permits the DPS to exchange the fingerprint data with the Federal Bureau of Investigation.

## EDUCATION K-12 COMMITTEE (Cont'd.)

### school districts; educational mismanagement; intervention (H.B. 2711) – Chapter 139 E

Beginning April 29, 2008, authorizes the State Board of Education (SBE) to appoint a superintendent to a school district with six or more schools that is determined to have systemic educational mismanagement by the Arizona Department of Education (ADE).

***Appointment of the Superintendent*** – ADE must recommend at least three persons to serve as superintendent of the school district to the SBE. The SBE must deny the ADE recommendation or appoint a superintendent to serve a term of three years. To the extent permitted by law, the SBE appointment of a superintendent voids the current superintendent's contract and prohibits a severance or buyout package for the current superintendent.

***Duties of the SBE-appointed Superintendent*** – The SBE-appointed superintendent is charged with reviewing and investigating the school district's educational affairs and submitting a detailed report that includes an educational improvement plan to the SBE within 120 days of appointment. The bill also requires the SBE-appointed superintendent to submit quarterly reports beginning 90 days after the submittal of the educational improvement plan.

***Community Advisory Committee*** – The SBE-appointed superintendent must appoint a 15-member Community Advisory Committee (Committee) comprised of a majority of the members residing within the school district. The SBE-appointed superintendent or any officers or employees of the school district found to have systemic educational mismanagement are not permitted to serve on the Committee.

***SBE Duties and Powers*** – The SBE must formally review the SBE-appointed superintendent's progress every six months to determine whether the operation of the school district should be returned to the school district governing board. The SBE must consider the appointed superintendent's quarterly progress reports and Committee input, and may remove and replace the appointed superintendent if the superintendent's progress is insufficient. The bill outlines an exit strategy for a school district with systemic educational mismanagement once it has been determined that the school district no longer has systemic educational mismanagement and has achieved adequate academic progress.

### charter schools; ASDB; transportation (H.B. 2747) – Chapter 208

Permits a school district to transport sensory impaired pupils to a charter school, upon parental request, if the school district already transports pupils to the Arizona State Schools for the Deaf and the Blind (ASDB) and the distance from the pupil's residence to the charter school is less than the pupil's residence to the ASDB. The bill also sets the probationary period for ASDB employed teachers at two years from the first day of employment and adds the ASDB to the state personnel system if sufficient monies are appropriated from the Arizona Department of Administration to fund the ASDB transfer to the state personnel system before July 1, 2009.

### tribal lands; adequate school facilities (H.C.M. 2007)

Urges the U.S. Congress to set aside sufficient Bureau of Indian Education (BIE) monies to replace two existing BIE schools with one school on the Third Mesa of the Hopi Reservation.

## **EDUCATION K-12 COMMITTEE (Cont'd.)**

### school district expenditures; authorization (H.C.R. 2005/S.C.R. 1023)

Authorizes school districts in FY 2007-2008 to expend local revenues in the amount of \$146,596,568 above the aggregate expenditure limitation allowed by the Arizona Constitution.

## **LEGISLATION VETOED**

### scholarships; disabled pupils; good cause (S.B. 1025) – VETOED

Provides for the Arizona Department of Education to make good cause exceptions to eligibility requirements of the Arizona Scholarships for Pupils with Disabilities Program (Program).

In her veto message, the Governor indicates the Program is the subject of litigation and the continued existence of the Program is unpredictable and it is premature to expand it in the midst of this type of legal challenge.

### review committee; Arizona national rankings (S.B. 1279) – VETOED

Creates a Review Committee on Arizona National Rankings (Committee). The bill requires the Arizona Department of Education and the Arizona Department of Commerce to provide staff support, assistance and resources.

The Governor indicates in her veto message that the work of the Committee is already being undertaken by numerous policy makers, advisory groups and regulatory agencies that are trained in peer review analysis, and the Committee, without any funding, would duplicate statistical analyses already conducted by others.

### schools; employee code of conduct (S.B. 1341) – VETOED

Requires the State Board of Education (SBE) to recommend to each public school governing body a code of conduct for public school employees that may be publicly adopted or amended to fit the needs of the public school. If adopted, the board must post the code of conduct on its website or disseminate it in printed form and require each employee to recognize the receipt of the code of conduct in writing. Any failure to adopt the SBE or any code of conduct does not result in civil liability or grounds for a private cause of action.

The Governor states in her veto message that most public schools already have adopted customized employee codes of conduct and, if not, they can obtain sample codes of conduct through existing legal and industry organizations. Additionally, she indicates that mandating the SBE to develop sample codes of conduct is unnecessary and would divert the SBE from its primary duties.

### schools; multiple birth siblings; classrooms (H.B. 2039) – VETOED

Requires, with exceptions, a public school to place multiple birth siblings enrolled in the same school and grade level in the same or separate classrooms, whichever is requested by the parent.

In her veto message, the Governor indicates that classroom placement of children and their siblings should be addressed on a case-by-case basis through a collaborative decision between educators and parents, and that state legislative intervention is unwarranted.

## **EDUCATION K-12 COMMITTEE (Cont'd.)**

### schools; standards; PE; art; music (H.B. 2557) – VETOED

Prohibits a school district from eliminating instruction in physical education, arts, music, career and technical education or vocational education from the school district's prescribed course of study for budgetary reasons unless the school district governing board votes at a public meeting to reduce or eliminate the programs. Also, requires the Arizona Department of Education to survey school districts regarding instruction in physical education, arts, music, career and technical and vocational education and report to the Governor and Legislature by December 15, 2008.

In her veto message, the Governor indicates that a decision by a school district governing board is already the method by which school districts make changes to their curricula, and therefore the bill is unnecessary and redundant. In addition, she states that the bill does not provide additional resources to foster programs in music, the arts, physical education, or career and technical education.

### school districts; compliance; withholding monies (H.B. 2560) – VETOED

Allows the State Board of Education (SBE) to direct the Superintendent of Public Instruction (SPI) to withhold ten percent of state aid monies from a school district found to be substantially and deliberately out of compliance with education statutes related to the powers and duties of governing boards, school employees and instruction if the school district fails to correct the deficiency within 90 days after receiving notice from the Arizona Department of Education. The bill further decreases a school district's maintenance and operations general budget limit by the amount withheld by the SPI, until the SBE makes a final determination of compliance.

The Governor states in her veto message that the SBE and the SPI currently have sufficient powers to issue strong penalties to a school district through a ten percent withholding if the school district is in noncompliance with Uniform System of Financial Records requirements and through new powers granted in Laws 2008, Chapter 139 (H.B. 2711), that allows a takeover of a school district that is academically underperforming.



# **Finance Committee**

**Senator Jim Waring, Chairman**



**Tom Benton, Research Analyst**

**Jonathan Tuepker, Intern**

# **FINANCE COMMITTEE**

## **LEGISLATION ENACTED**

### tax exemption; internet applications (S.B. 1340) – Chapter 194

Exempts, from transaction privilege tax and use tax collections, including the retail and telecommunications classifications, application services designed to assess or test student learning or to promote curriculum design or enhancement that is purchased by or for any school district, charter school, community college or state university. Defines “application services” and “curriculum design or enhancement.”

### federal tax intercept proposal (S.C.M. 1004)

Requests the U.S. Congress to enact legislation authorizing the U.S. Department of the Treasury to intercept federal tax refunds to pay overdue victim restitution and other financial obligations ordered by state and local courts.

### 2008 tax corrections act. (H.B. 2103) – Chapter 60

Makes technical, clarifying and conforming changes to Arizona tax statutes. Adds, retroactive to tax years beginning from and after December 31, 2006, a cross-reference for the clarification of the classification of property used for the manufacture of biodiesel fuel and a clarification stipulating that only a residential graywater conservation system must comply with rules set forth by the Arizona Department of Environmental Quality. Repeals the provisional requirement that an individual or a corporation must submit a report of intent in order to be eligible for select income tax credits.

### internal revenue code conformity. (H.B. 2104) – Chapter 94

Conforms the definition of the United States Internal Revenue Code (IRC) for tax year 2008 to the IRC definition in effect on January 1, 2008.

### sales tax; electronic payment delinquency. (H.B. 2106) – Chapter 21

Beginning January 1, 2009, changes the delinquency date for on-line payments of transaction privilege taxes to the Department of Revenue from the 20<sup>th</sup> day of the month following the month for which they were collected, to on or before the last business day of the month following the month for which they were collected.

### delinquent information tax returns; penalty (H.B. 2107) – Chapter 204

Beginning tax year 2009, adjusts the penalty for a taxpayer who fails to file, or fails to provide the required materials for an information return, to \$100 per month not to exceed \$500.

## **FINANCE COMMITTEE (Cont'd.)**

### residential property tax; homesite area (H.B. 2130) – Chapter 49

Beginning January 1, 2009, allows a homesite designated as class 3 property to include, within its parcel, up to ten additional acres of real property on which the residential improvement is located. Also allows a homesite area to include between 10 and 40 acres on a single parcel of real property on which the residential improvement is located if it is zoned exclusively for residential purposes or contains legal restrictions or physical conditions that prevent the division of the parcel.

### property classification; bed and breakfast (H.B. 2191) – Chapter 178

Increases the number of rooms to six, for property classification purposes, an owner-occupied residence is allowed to have and qualify as a bed and breakfast inn for class 4, residential rental property.

### luxury tax; tobacco tax stamps (H.B. 2317) – Chapter 38

Requires the Department of Revenue (DOR) to use certain procedures during compliance inspections in order to make a determination as to whether a licensed cigarette distributor or retailer has complied with Arizona's luxury tobacco tax stamp laws. If a distributor or retailer has substantially acted in accordance with all other cigarette stamp provisional requirements, DOR is required to determine the following exceptions to be in compliance: 1) individual cigarette packages that have partial serial numbers matching those packaged or shelved together; 2) individual cigarette packages that are part of an unopened pallet, master carton or carton that contains other properly stamped packages; and 3) individual cigarette packages that can be supported by documentation from the retailer to be part of a pallet, master carton or carton that contains properly stamped packages. The act becomes effective on the general effective date, subject to conditions established in Laws 2006, Chapter 278.

### property tax exemption; charter schools (H.B. 2330) – Chapter 252

Specifies that the property and buildings, including land, improvements, furniture and equipment, that are owned by a nonprofit charter school are exempt from property taxation beginning on the date the nonprofit organization acquires ownership of the property and buildings.

### property tax lien interest calculation (H.B. 2351) – Chapter 65

Specifies that interest on tax liens begins to accrue at the bid rate on the first day of the month following the purchase for both initial tax liens and subsequent tax liens.

### reservation telecommunications legislative study committee (H.B. 2514) – Chapter 114 E

Effective April 28, 2008, reestablishes the Reservation Telecommunications Legislative Study Committee until October 1, 2010.

### ~~property tax deeds; technical correction~~ (NOW: tax lien sale; regulation) (H.B. 2523) – Chapter 174 E

Effective May 8, 2008, allows a county board of supervisors (BOS) to sell real property in the county held by the state by tax deed to the owner of contiguous real property that is used for residential purposes. The bill further allows a BOS to accept an offer by the contiguous owner to

## **FINANCE COMMITTEE (Cont'd.)**

purchase the property if: 1) both the property offered for sale and the contiguous property were at one time under common ownership or the property offered for sale is part of a common area maintained by a homeowners' association, determined by the county assessor; and 2) the property offered for sale cannot be separately used for residential purposes pursuant to the applicable building codes and ordinances of the jurisdiction in which the property is located. The bill disallows the sale of contiguous real property if there is more than one contiguous parcel of property and requires, if an offer is pending at the time of an auction of the property, the BOS to remove the property from the auction.

In addition, the bill allows county treasurers, in a county with two million or more persons, to use their specific county's taxpayer information fund for the purposes of alerting taxpayers of their parcel or of an adjacent parcel being up for sale at a deed sale and specifies that the information about delinquent or orphaned properties may also be posted on a county treasurer's website.

### income tax credit; other states (H.B. 2589) – Chapter 220

Defines, for residents and nonresidents, the term "entire income" as adjusted gross income for the purpose of an individual income tax credit for income taxes paid to other states. Provides supplemental definitions.

### renewable energy valuation; expiration extension (H.B. 2614) – Chapter 306

Extends, through December 31, 2040, the valuation methodology for renewable energy equipment, which is 20 percent of the depreciated cost of the equipment. The act also removes automatic repeal provisions and specifies that renewable energy systems for residential and residential rental properties do not add value to the property for the purposes of property tax and defines "renewable energy systems."

### ~~prime contracting classification; contract services~~ (NOW: exemption; preconstruction services) (H.B. 2622) – Chapter 255

Exempts the gross proceeds of sales or gross income attributable to a separate, written design phase services contract or professional services contract, executed before modification beings, from transaction privilege tax under the prime contracting classification.

### municipal tax incentive penalty; application (H.B. 2638) – Chapter 151

Applies the prohibition and penalties against a city or town providing transaction privilege tax incentives as an inducement to attract retail projects to any city or town in which 65 percent of the city or town is within the exterior boundary of a metropolitan statistical area with more than two million persons.

### taxpayer information ruling (H.B. 2692) – Chapter 221

Allows a taxpayer to make a request, anonymously through a designee of the taxpayer's choice, for a taxpayer information ruling.

## **FINANCE COMMITTEE (Cont'd.)**

### **LEGISLATION VETOED**

#### **state equalization property tax repeal. (H.B. 2220/ S.B. 1002) – VETOED**

Repeals the state equalization property tax rate, which was suspended by Laws 2006, Chapter 354, for three tax years (2006, 2007 and 2008).

In her veto message, the Governor expresses concern that as Arizona is facing a budget shortfall in FY 2008-2009, permanently repealing a tax that supports the financing of schools and education would be fiscally irresponsible.

#### **general obligation bond requirements (H.B. 2585) – VETOED**

Requires a publicity pamphlet to state in bold-faced type if the proposed bond issue will exceed the political subdivision's constitutional debt limit when combined with current debt and if all debt were issued at the same time. Requires the examples in the publicity pamphlet of general obligation bonds to reflect the estimated impact of the bonds on the average residential and commercial properties using a valuation growth factor that is 50 percent of the projected total annual increase in secondary assessed value. Specifies that an election for the refinancing of bonds previously voter approved is not required so long as the weighted average maturity of the refunding bonds is at least 75 percent of the weighted average maturity of all the bonds being refinanced.

In her veto message, the Governor states that the bill unnecessarily limits local options to refinance bonds and contains unnecessary and undesirable changes to the voter information pamphlets. The Governor also states that the bill unreasonably restricts counties, cities, community college districts and school districts from taking advantage of lower market interest rates.

# **Financial Institutions, Insurance & Retirement Committee**

**Senator Pamela Gorman, Chairman**



**Brett Rufer, Research Analyst**

**Jake Agron, Assistant Analyst**

# **FINANCIAL INSTITUTIONS, INSURANCE & RETIREMENT COMMITTEE**

## **LEGISLATION ENACTED**

~~minimum wage, conflicting law, repeal~~ (NOW: loan origination licensing) (S.B. 1028) – Chapter 310

Beginning January 1, 2010, requires all loan originators to be licensed by the Department of Financial Institutions (DFI). Requires an applicant for a license to: 1) complete a loan originator course approved by the Superintendent of DFI (Superintendent) during the year preceding the time of application or have at least three years of loan origination experience immediately preceding the time of application; 2) pass a loan originator examination approved by DFI within the year preceding the granting of the license; 3) submit an application in writing with any additional information as requested; and 4) submit a nonrefundable application fee.

Designates acts from which a loan originator is prohibited from engaging. Enables the Superintendent to deny, suspend or revoke a loan originator's license and exempts specified individuals from the loan originator license. Requires annual renewal of a loan originator license. Requires the Superintendent to establish a Loan Originator Examination Committee to create and periodically update standards for passing an examination for loan originators.

~~AMA water districts, conflicting versions~~ (NOW license renewals; bankers; mortgage brokers) (S.B. 1029) – Chapter 311

Changes, from September 30 to December 31, the license renewal deadline date for mortgage brokers. Changes, from March 31 to December 31, the license renewal deadline date for mortgage bankers and commercial mortgage bankers.

~~economic development; conflicting laws; repeal~~ (NOW: PSPRS; medical personnel; service definition) (S.B. 1030) – Chapter 227

Allows a current Public Safety Personnel Retirement System (PSPRS) member to redeem prior service while employed by a private corporation that performed firefighting services to a PSPRS employer. The employer may elect to pay for the service by amending its joinder agreement, or without such an amendment the employee is permitted to purchase the prior service.

~~real estate disclosure; liens~~ (NOW: CORP; judiciary; other designated position) (S.B. 1043) – Chapter 185

Authorizes the local board of the Judiciary to designate positions within the Administrative Office of the Courts that require direct contact with and primarily provide training or technical expertise to county probation, surveillance or juvenile detention officers as Corrections Officer Retirement Plan (CORP) positions. To qualify as a CORP position, the employee filling the position must currently be a CORP member employed as a probation, surveillance or juvenile detention officer, have at least five years of credited service in CORP and make a written request to the local board within 90 days of accepting the position that the position be CORP designated.

## **FINANCIAL INSTITUTIONS, INSURANCE & RETIREMENT COMMITTEE (Cont'd.)**

insurance producers; examinations; applicability (S.B. 1086) – Chapter 122

Requires all insurance producer license applicants to pass an insurance producer examination within the one-year period preceding their application submission. Permits an individual who is called into active military service to get an extension equal to the number of days the individual was in active military service, not to exceed one and one-half years.

~~marriage; dissolution; community property~~ (NOW: PSPRS; investments; management) (S.B. 1151) – Chapter 125 E

Beginning April 29, 2008, allows the Fund Manager of the Public Safety Personnel Retirement System (PSPRS) to retain external investment management, allows the Fund Manager to commingle assets of PSPRS, the Elected Officials' Retirement Plan and the Corrections Officer Retirement Plan and makes changes to various current investment caps.

replacement policies; application of law (S.B. 1163) – Chapter 160

Exempts an insurance provider from the requirement that the provider present a replacement policy and new disclosures to existing policyholders who exercise a term conversion privilege among corporate affiliates.

credit report; score; security freeze (S.B. 1185) – Chapter 43

Establishes procedures and requirements for a consumer to request that a consumer reporting agency place a freeze on the consumer's credit report. A freeze must be placed on a credit report within ten business days of the request and remain in effect until the consumer requests otherwise. Guidelines for temporarily lifting and removing a security freeze are also established, including a specific timeframe in which the consumer reporting agency must temporarily lift or remove a freeze. Specifies entities that are entitled to access a frozen credit report. Protects a consumer reporting agency from liability for failing to lift a security freeze and stipulates specific actions for which the consumer reporting agency is liable to the consumer for damages. Becomes effective September 1, 2008, or, if the general effective date is later, it becomes effective retroactively to September 1, 2008.

~~burden of proof; emergency treatment~~ (NOW: insurance; long-term care) (S.B. 1223) – Chapter 230

SEE HEALTH COMMITTEE.

ASRS; federal conforming changes (S.B. 1225) – Chapter 29

Conforms statute relating to the Arizona State Retirement System with changes made to the federal Internal Revenue Code relating to direct rollovers of after-tax contributions, interest rate assumptions, mortality tables and transfers of death-benefits for nonspouse beneficiaries.

cease and desist orders; disclosure. (S.B. 1285) – Chapter 84

Requires a cease and desist order issued by the Superintendent of the Department of Financial Institutions for a violation that relates to unlicensed activity to be open to public inspection.



## **FINANCIAL INSTITUTIONS, INSURANCE & RETIREMENT COMMITTEE (Cont'd.)**

~~PSPRS; deferred retirement; technical correction~~ (NOW: ASRS; administration procedures) (S.B. 1407) – Chapter 264 E

Effective June 10, 2008, exempts the Arizona State Retirement System (ASRS) from the Revised Arizona Unclaimed Property Act and establishes procedures for unclaimed property within ASRS.

The bill also establishes guidelines for transfers out of ASRS into another retirement system or plan; authorizes the ASRS Board to adopt, amend or repeal rules for the administration of the LTD Program or for transfers; stipulates that a member who reinstates previously forfeited service is subject to the benefits and duties in effect at the time of the member's most recent reemployment; and requires ASRS to recover any overpayments to members or beneficiaries by reducing any future benefit payment. An appropriation of \$137,607 in FY 2008-2009 from the ASRS Administration Account to the ASRS is included and exempted from lapsing.

~~global security risks; investments; prohibition~~ (NOW: divestments; terrorism countries; contract prohibition) (S.B. 1489) – Chapter 201

SEE APPROPRIATIONS COMMITTEE.

insurance; technical changes; definitions (H.B. 2031) – Chapter 163

Relocates provisions of statute that prohibit a person from using an insurance license principally to insure the licensee, the licensee's family or the licensee's other insurable interests, making the prohibition a compliance requirement rather than a licensing issue. Removes the requirement that a licensee deliver a suspended or revoked license to the Department of Insurance. Modifies the definition of "company action level event" as it applies to filing a risk-based capital report. Expands the definition of "major line insurance" to include personal lines insurance.

~~PSPRS; medical personnel; service definition~~ (NOW: state treasurer; employees; background checks) (H.B. 2053) – Chapter 176

Authorizes the State Treasurer to obtain federal criminal records and periodically review credit standings for all prospective and current employees.

~~PSPRS; local boards; procedures (H.B. 2058) – Chapter 59~~

Requires a local board of the Public Safety Personnel Retirement System to commence a hearing on a matter before it within 90 days after the matter is presented to the local board. Automatic approval of the relief demanded by the petitioning party is granted if the local board fails to commence a hearing within the 90 days. Stipulates that legal counsel employed by a local board represents the local board and is independent of the employer or employee.

~~PSPRS; health insurance subsidy; employer (H.B. 2059) – Chapter 233 E~~

Effective May 23, 2008, repeals the \$25 monthly subsidy cap, which was to take effect on July 1, 2008, for retired Public Safety Personnel Retirement System members who elect to purchase individual health care coverage.

## **FINANCIAL INSTITUTIONS, INSURANCE & RETIREMENT COMMITTEE (Cont'd.)**

### ASRS; global security risk report (H.B. 2061) – Chapter 133

Requires the Arizona State Retirement System to submit its annual report on global security risk to the Senate and House of Representatives standing committees on retirement issues, rather than the Senate Finance and House Government and Ways and Means standing committees.

### captive insurers; authority (H.B. 2081) – Chapter 213

Allows captive insurers to directly insure employment practices liability risk, branch captives to provide the same lines of coverage as pure captives and pure captives to form as a limited liability company. Removes the requirement that at least one organizing subscriber of a reciprocal insurer be a resident of Arizona.

### CORP; joinders; credited service (H.B. 2116) – Chapter 242

Provides for the transfer of credited service in a Corrections Officer Retirement Plan (CORP) designated position accumulated by a dispatcher from another Arizona defined benefit state retirement system or plan if a governing body or agency elects to form a joinder agreement. Changes, from 60 to 90, the number of days after the employer's effective date that a state defined benefit plan is required to transfer any assets to CORP.

### ~~CORP; disability retirements~~ (NOW: CORP; member contributions; disability) (H.B. 2117) – Chapter 234

Extends eligibility for ordinary disability benefits to all Corrections Officer Retirement Plan (CORP) members. Increases, by .45 percent, the employee contribution rate for all CORP members, except dispatchers, until the fund reaches 100 percent funding level.

### CORP; DPS detention officers (H.B. 2120) – Chapter 144

Adds Department of Public Safety (DPS) detention officers as a designated group for membership in the Corrections Officer Retirement Plan (CORP) and permits the officers to participate in CORP if the Director of DPS enters into a joinder agreement with the CORP Fund Manager.

### ~~DOA; confidential data positions; fingerprints~~ (NOW: Iran; public fund divestment) (H.B. 2151) – Chapter 235 E

SEE GOVERNMENT COMMITTEE.

### service company contracts (H.B. 2224) – Chapter 172

Limits a manufacturer's, builder's or seller's exemption from obtaining a permit to offer service contracts to only those warranties issued on the actual items, structures or improvements that they manufacture, build or sell. Exempts the following from requiring a permit: 1) a contractor whose service contract only covers the actual items, structures or improvements being installed, constructed or built; and 2) a limited duration maintenance agreement that only provides for scheduled maintenance and does not include repair or replacement.

## **FINANCIAL INSTITUTIONS, INSURANCE & RETIREMENT COMMITTEE (Cont'd.)**

actuarial opinion; technical correction (NOW: boiler inspectors; immunity) (H.B. 2228) – Chapter 215

Exempts an insurer or an insurer's agents or employees from liability for damages that result from an act or omission during the course of performing boiler or lined hot water storage heater inspections. The exemption does not apply if the gross negligence of the insurer, its agent or its employee created the condition that was the cause of the injury, death or loss.

schools; textbook purchases; technical correction (NOW: insurance transactions; false disclosures) (H.B. 2282) – Chapter 236

Prohibits an insurance producer, consultant or third party administrator from falsely disclosing the method or amount of compensation associated with a health benefits plan.

counties; debit card acceptance (H.B. 2378) – Chapter 245

Allows counties to accept payment of monies for services by credit or debit cards and requires all fees or costs incurred by the use of the cards to be paid by the person tendering payment, unless the government entity determines that the benefits of the transaction exceed the additional processing costs.

insurance; authorized reinsurance (NOW: stranger originated life insurance) (H.B. 2513) – Chapter 240

Establishes prohibited practices associated with stranger originated life insurance (STOLI) policies, including a situation in which, at the time of the policy's inception, life insurance is purchased with resources or guarantees from or through a person or entity that could not lawfully initiate the policy and there is an agreement to directly or indirectly transfer the ownership of the policy or the policy benefits to a person or entity that lacks an insurable interest. The bill further specifies allowable practices associated with STOLI policies, primarily consisting of the assignment of a policy after its inception, a business succession planning arrangement and certain types of loans.

extension of credit; identity theft (H.B. 2587) – Chapter 46

Prohibits any person who does not use a consumer's credit report from approving an application, from extending credit or from lending money unless the person takes reasonable steps to verify the consumer's identity and confirm that the application for extension of credit is not the result of identity theft or aggravated identity theft. Prohibits any person who uses a consumer's credit report to approve an application for the extension of credit or to lend money if the creditor receives notification that a police report has been filed with a consumer reporting agency indicating the applicant has been a victim of identity theft or if the creditor receives notification that the consumer has placed a fraud alert or security freeze on the credit report. Exempts financial institutions that are required to have a customer identification program pursuant to federal law from the new procedures pertaining to taking reasonable steps to verify the consumer's identity.

insurance contracts; small employer coverage (H.B. 2658) – Chapter 118

SEE COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE.

## **FINANCIAL INSTITUTIONS, INSURANCE & RETIREMENT COMMITTEE (Cont'd.)**

Sudan; investments; business operations; prohibition (H.B. 2705/S.B. 1366) – Chapter 1

SEE COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE.

Arizona trust code (H.B. 2806) – Chapter 247

Establishes the Arizona Trust Code (ATC), effective January 1, 2009, for all trusts and judicial proceedings concerning trusts, unless otherwise provided by law. The bill repeals and modifies existing laws, codifies common law practices and creates new rules and guidelines concerning the creation and implementation of trusts, the duty of trustees and judicial proceedings. New ATC provisions stipulate that the terms of a trust prevail over the ATC, except under specified instances. The ATC permits interested parties to enter into a binding, nonjudicial settlement agreement with respect to any matter involving a trust, except for modifying or terminating a trust. Changes in the code prohibit a judgment or court order against the beneficiary for spousal maintenance from being attached to present or future distributions to the beneficiary, while still permitting the attachment of child support or maintenance judgments or orders. The bill also prohibits a creditor of a settlor from reaching any trust property that is used to pay or reimburse the settlor for any income tax on trust income or trust principal that is payable by the settlor.

~~autism; covered benefit denial prohibited~~ (NOW: autism; covered benefit denial prohibition) (H.B. 2847/S.B. 1263) – Chapter 4

SEE HEALTH COMMITTEE.

# **Government Committee**

**Senator Jack Harper, Chairman**



**Bill Boyd, Research Analyst**

**Justin Weaver, Assistant Analyst**

**Jameson Lynch, Intern**

# GOVERNMENT COMMITTEE

## LEGISLATION ENACTED

professional license extensions; military members (S.B. 1006) – Chapter 183

Prohibits the expiration of various professional and occupational licenses issued to members of the armed forces reserves and the Arizona National Guard serving on federal active duty and provides a six-month extension, under certain conditions. Extends licenses of military members injured as a result of active duty for six months from the date the military member is able to perform activities under the member's license. Prohibits a state licensing authority from charging additional late or delinquency fees to a military member who renews a license within the applicable extended time period.

cities; campaign finance; website (S.B. 1024) – Chapter 184

Requires a city with a population greater than 2,500 persons and a county with a population greater than 100,000 persons to post campaign finance transactions greater than \$500 on their website.

emergency response commission; continuation. (S.B. 1121) – Chapter 156

Retroactive to July 1, 2008, the Arizona Emergency Response Commission is continued until July 1, 2018.

notary public; registration (S.B. 1174) – Chapter 80 RFE

Subject to the requirements for enactment (Proposition 108), which requires the affirmative vote of at least two-thirds of the members of each house of the Legislature, S.B. 1174 transfers all of the powers and duties relating to notaries public, including the receipt of fees, from the clerk of the superior court and county recorders to the Secretary of State and specifies the disbursement of all monies received from such fees to various funds and accounts.

state expenditures; searchable database; transparency (S.B. 1235) – Chapter 312

Requires the Arizona Department of Administration to establish a public internet-based searchable database by January 1, 2011, that contains comprehensive information detailing receipts and expenditures of state monies and prescribes database functions and required information.

state employees; living donor leave. (S.B. 1253) – Chapter 259

Allows a state employee who serves as a bone marrow donor to take a five work day paid leave of absence and a state employee who serves as an organ donor to take a thirty work day paid leave of absence.

## **GOVERNMENT COMMITTEE (Cont'd.)**

### municipal plans; neighborhood element (S.B. 1385) – Chapter 72

Requires a municipality with a population of 50,000 or more people to include a neighborhood preservation and revitalization element in its long-range general plan.

### real estate disclosure; training ranges (S.B. 1387) – Chapter 196

Defines a Military Electronics Range (MER) as a geographically defined area in which electronic communication, monitoring or other devices are routinely tested as a part of the military mission of a military base installation (base).

Requires cities, towns or counties to notify the office of a base commander when an application to alter property contained in a MER is deemed complete and allows a base commander to submit comments regarding a proposed land use change seven days before the first public hearing on the proposed land use change. The presence of a MER does not require or allow a public hearing when one is not normally required for a land use change nor does the presence of a MER allow or require the denial of a building, occupancy or other land use permit.

Directs the State Land Department (SLD), on receipt of proper information from a base commander with responsibility for a MER, to prepare and maintain a map of the MER, provide the map to the State Real Estate Department (Department) and make the map available to the public. The Real Estate Commissioner (Commissioner) must: 1) execute and record a document in each county that contains a MER that discloses that the land is contained in a MER, and 2) post a map of the MER on its website. Effective December 31, 2008, the Commissioner must disclose that the property is contained in a MER in a public report authorizing the sale of the property. A public report issued 60 or fewer days prior to the filing of a map with the Department depicting a MER is not required to indicate the presence of the MER.

Requires the Department of Veterans' Services to transfer any real estate, property rights and related infrastructure to the SLD for the purpose of preserving or enhancing military installations and allows the SLD to accept title and manage real estate, property rights and related infrastructure for the purpose of preserving or enhancing military installations.

### public records; storage (S.B. 1456) – Chapter 75

Requires a custodian of records that keeps photography, film, microfiche, digital imaging or other types of reproduction or electronic media to protect records from loss or destruction according to standards that are established by the Director of the Arizona State Library, Archives and Public Records and allows source documents to be destroyed.

### subdivision reports; notice (S.B. 1491) – Chapter 271 E

Effective June 16, 2008, requires, when land has been unlawfully subdivided, the Arizona Department of Real Estate (Department) to record a public notice that includes a legal description of the land indicating that building permits for the land may be denied until requisite approvals are secured. The bill also requires the Department to notify all parties with an ownership interest of record when it records an action against a subdivision and allows the Department to assess a civil penalty not to exceed \$5000 for the sale or lease of lots, parcels or fractional interests in a subdivision without first obtaining a public report from the Department.

## **GOVERNMENT COMMITTEE (Cont'd.)**

### enduring freedom memorial; extension. (H.B. 2021) – Chapter 92 E

Effective April 28, 2008, extends the completion and dedication deadline for the Enduring Freedom Memorial to December 31, 2010, and the Bill of Rights Monument to December 31, 2013.

### county treasurers; procedures (H.B. 2032) – Chapter 35

Modifies the procedural requirements a county treasurer must follow when disbursing and accounting for county monies and allows a county treasurer to disburse money electronically.

### sign walkers; municipal regulation (H.B. 2066/S.B. 1076) – Chapter 5

Defines a sign walker. Requires municipalities to allow the posting, display and use of sign walkers and allows municipalities to adopt reasonable time, place and manner regulations relating to sign walkers.

### municipal annexation; finality (H.B. 2113) – Chapter 95

Requires a clerk of a city or town to provide a copy of an adopted annexation ordinance to the clerk of the board of supervisors of each county that has jurisdiction over the annexed area.

### ~~DOA; confidential data positions; fingerprints~~ (NOW: Iran; public fund divestment) (H.B. 2151) – Chapter 235 E

Effective May 23, 2008, requires the Arizona State Retirement System (ASRS), the Public Safety Personnel Retirement System, the Elected Officials' Retirement Plan, the Corrections Officer Retirement Plan and the State Treasurer (public funds) to divest securities of companies with scrutinized business operations in Iran. Requires public funds to: 1) assemble a scrutinized companies list; 2) update and report the list annually; 3) divest fully in a company within 18 months after its appearance on the list; and 4) report annually on any actions taken. Prohibits public funds from acquiring securities of companies on the scrutinized companies list.

Requires contractors to certify in procurement contracts with Arizona or its political subdivisions that the contractor does not have scrutinized business operations. Permits, due to a false certification, a state or political subdivision to terminate a contract and the state's Central Procurement Officer (CPO) to suspend a contractor from eligibility for procurement contracts with the state. Requires the CPO to create a list of parties excluded from Arizona procurement.

This bill also appropriates \$30,000 and one half-time FTE from the ASRS Account to ASRS in FY 2008-2009 for administrative implementation of this act. Repeals the requirements on July 13, 2013, or earlier, based on actions by the U.S. President or U.S. Congress.

### county plans; major amendments (H.B. 2154) – Chapter 164

Makes permissive a former requirement that a county board of supervisors refer major amendments to a county plan and amendments to existing zoning regulations back to a county planning and zoning commission.



## GOVERNMENT COMMITTEE (Cont'd.)

### transfer of development rights (H.B. 2155) – Chapter 145

Requires a municipality to adopt an ordinance providing for the right of a municipality to enter into an intergovernmental agreement with another municipality or a county for the transfer of development rights between jurisdictions and allows the transfer of development rights between a municipality and unincorporated areas of a county.

### ~~state government; technical correction~~ (NOW: disciplinary records; open to inspection) (H.B. 2159) – Chapter 277

Establishes the disciplinary records of public officers and state employees as public records and requires a public body to maintain accurate disciplinary records that include employee responses to all disciplinary actions.

### reviser's technical corrections; 2008 (H.B. 2163) – Chapter 243 RFEIR

Makes technical corrections to the 2008 version of the Arizona Revised Statutes. Portions of the bill are subject to the requirements for enactment for initiatives and referendums (Proposition 105), which require the affirmative vote of at least three-fourths of the members of each house of the Legislature. Other portions of the bill include various retroactive enactments.

### ~~cities and towns; technical correction~~ (NOW: publication; county minutes) (H.B. 2193) – Chapter 214

Removes the requirement that a county publish the minutes of proceedings in the official newspaper of the county. Specifies the minutes must be made available at the office of the clerk of the board and at public libraries in the county.

### ~~municipalities; technical correction~~ (NOW: military facility; reservations; security) (H.B. 2194) – Chapter 300 E

SEE APPROPRIATIONS COMMITTEE.

### critical infrastructure; pipelines; review (H.B. 2371) – Chapter 262

Requires a fuel facility to provide an annual written report to the Director of the Department of Homeland Security (Director) that describes the security measures in place to protect critical infrastructure and requires the Director to provide a report every five years to the Governor, the Legislature and the operator of a fuel facility listing the Director's recommendations regarding any additional recommended security measures. The bill also prohibits the disclosure of critical infrastructure to the state Real Estate Commissioner in a notice of a subdivider's intent to sell or lease subdivided lands.

### county auctions; easement exemption (H.B. 2406) – Chapter 105

Allows a county, with unanimous consent of the board of supervisors, to grant an easement on county property to a utility for public purposes without a public auction.

## **GOVERNMENT COMMITTEE (Cont'd.)**

### open meetings; public opinions (H.B. 2410) – Chapter 135

Specifies that if a member of a public body expresses an opinion or discusses an issue with the public personally through the media or at a venue other than an actual meeting, the member is not in violation of the open meeting law provided the opinion is not directed at another member of the public body and there is no plan to engage in collective deliberation to take legal action.

### procurement; government set aside program (H.B. 2439) – Chapter 148

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.

### condominiums; planned communities; political petitions (H.B. 2440) – Chapter 238

Prohibits a non-gated condominium or planned community (HOA) from barring the circulation of political petitions on public property and allows a HOA to reasonably regulate the circulation of political petitions.

### critical infrastructure information; disclosure (H.B. 2466) – Chapter 68

Exempts critical infrastructure information provided to any local government from public disclosure.

### political subdivisions; state endowment investments (H.B. 2507) – Chapter 136

Allows the State Treasurer to invest and reinvest trust monies of the state, state agencies, political subdivisions and tribal nations in equity securities for long-term endowment funds.

### food safety regulation (H.B. 2582) – Chapter 149

Requires food safety rules created by the Director of the Department of Health Services to exempt the following from regulation: 1) food and drink that is not potentially hazardous and prepared in a kitchen of a private home for occasional sale; 2) foods that are commercially prepackaged and offered at a child care facility; or 3) foods that are offered for sale at locations that sell only commercially prepackaged foods that are displayed in an area of less than ten lineal feet.

### ~~solar energy systems; permits~~ (NOW: solar construction permits) (H.B. 2615) – Chapter 241

Requires municipalities and counties to adopt standards for issuing solar photovoltaic and solar water heating system permits and restricts the allowable fees for those permits. The bill also creates the Local Government Solar Equipment Permit Process Improvement Study Committee.

### deed restrictions; private covenants (H.B. 2659) – Chapter 119

Allows an owner of real property to enter into a private covenant regarding that real property if certain circumstances apply. Defines a private covenant.

## **GOVERNMENT COMMITTEE (Cont'd.)**

### county graffiti abatement; procedures (H.B. 2701) – Chapter 307

Allows a court to order the parents of a juvenile who has been convicted of criminal damage for a second or subsequent offense to assist in the performance of community restitution under certain conditions.

Allows a retail business to determine the manner in which potential graffiti tools are displayed within certain limitations.

The bill also prohibits a county from issuing a kennel permit to an individual who has been convicted of cruelty to animals or dog fighting.

### ~~emergency management; compensation; determination~~ (NOW: condominium statutes; applicability) (H.B. 2726) – Chapter 223

Effective January 1, 2009, applies the Condominium Act to all condominiums in the state, regardless of the date the condominium was created.

### boxing commission; unarmed combat; rules (H.B. 2834) – Chapter 120

Requires the Arizona State Boxing Commission (Commission) to adopt rules for unarmed combat consistent with the mixed martial arts unified rules of conduct. Allows the Commission to establish a fee for unarmed combat events.

### opposing a North American Union (NOW: North American Union; opposing) (H.C.M. 2003)

Urges the President and Congress to use the historically cherished sovereignty of the U.S. and the best interests of its citizens as guiding principles when entering into treaties and agreements with foreign governments and not enter into a North American Union with Mexico and Canada.

### Turkish government; Greek Orthodox Christians (H.C.M. 2009)

Urges the government of Turkey to cease its discrimination of the Greek Orthodox Christian Church.

### statuary hall; Barry Goldwater (H.J.R. 2001)

Resolves that the members of the 48<sup>th</sup> Legislature and the Governor respectfully request that the U.S. Congress return the statue of John Campbell Greenway from Statuary Hall and replace it with a statue of Barry Goldwater.

## **LEGISLATION VETOED**

### GITA; state treasurer's office exemption (S.B. 1097) – VETOED

Prohibits employees of the Government Information Technology Agency and the Statewide Information Security and Privacy Office (SISPO) from accessing the State Treasurer's investment and banking computer systems.

## GOVERNMENT COMMITTEE (Cont'd.)

The Governor indicates in her veto message that the State Treasurer's office is not unique in possessing vital and sensitive information technology systems and it is premature to legislatively carve away SISPO's jurisdiction.

### administrative rules oversight committee. (S.B. 1255) – VETOED

Reestablishes the Administrative Rules Oversight Committee.

In her veto message, the Governor indicates that she vetoed S.B. 1255 for the same reasons she vetoed H.B. 2235.

### state telecommunications program; exemption (S.B. 1297) – VETOED

Permits the Cotton Research and Protection Council (CRPC) to enter into contracts for telecommunications products and services not offered by the state Telecommunications Program Office.

The Governor indicates in her veto message that the benefits of a statewide telecommunications system outweigh potential cost savings by CRPC purchasing telecommunications products and services elsewhere.

### homeowners' associations; foreclosures; voting rights (S.B. 1452) – VETOED

Limits the voting right of a declarant of a planned community to only the number of members of a board of directors that constitutes a minority if more than 500 lots in a community have been conveyed to a person other than the original declarant through a settlement of unpaid property taxes.

In her veto message, the Governor states that the members of any planned community may opt-in to such voting measures if they vote to amend their bylaws accordingly.

### administrative rules oversight committee (H.B. 2235) – VETOED

Reestablishes the Administrative Rules Oversight Committee (AROC).

In her veto message, the Governor indicates that she vetoed H.B. 2235 for many of the same reasons Governor Hull indicated in her April 26, 1999, veto letter, which stated that the continuation of AROC was unnecessary and duplicates existing mechanisms for resolving concerns regarding administrative rules.

# **Health Committee**

**Senator Carolyn Allen, Chairman**



**Heather Owens, Research Analyst**

**Venus Booth, Intern**

# HEALTH COMMITTEE

## LEGISLATION ENACTED

### infectious diseases; expedited therapy (S.B. 1078) – Chapter 12

Stipulates that it is not an act of unprofessional conduct for an allopathic, osteopathic or naturopathic physician or a physician assistant to write prescriptions or dispense antimicrobials to a person without first conducting a physical examination of that person or previously establishing a doctor-patient relationship, if the person is believed to have had significant exposure risk because of being a contact of another person who has been diagnosed with a communicable disease by the prescribing or dispensing physician.

### Arizona medical board (S.B. 1091) – Chapter 123

Requires a person applying for or renewing a license to practice allopathic medicine to: 1) complete a training unit as prescribed by the Arizona Medical Board; and 2) submit proof of having completed the training unit with the application or renewal form. Specifies that nothing creates a cause of action against any person, facility or program that conducts in good faith an assessment, examination or investigation of a licensee under investigation.

### HIV-related testing (S.B. 1113) – Chapter 13

Requires a health care provider to ensure that oral or written informed consent information is provided to the subject of an HIV-related test before the test is ordered, rather than requiring the specific written informed consent of a subject to be on a form prescribed by the Department of Health Services (DHS) or the Department of Insurance, before ordering the test.

Removes the requirement that the Director of DHS provide a written form to all health care providers containing a list of specified informed consent explanations, and eliminates the requirement that a health care provider provide the patient with an explanation of this information. Removes the requirement that the health care provider sign the form provided by DHS and return it to the Director if the health care provider chooses to use oral consent.

### physician assistants board; continuation (S.B. 1116) – Chapter 14

Retroactive to July 1, 2008, the Arizona Regulatory Board of Physician Assistants is continued until July 1, 2018.

### hospitals; single group licenses (S.B. 1117) – Chapter 292 E

Beginning June 27, 2008, allows a hospital that has terminated operations for no more than 120 days to be relicensed pursuant to the standards that applied under its most recent license if it is relicensed by October 1, 2008.

Allows, in a county with more than 500,000 persons, a hospital and up to ten of its satellite facilities to be issued a single group license by the Department of Health Services (DHS) if the satellite facilities are located farther than one-half mile from the main hospital building. Allows, in a

## HEALTH COMMITTEE (Cont'd.)

county with 500,000 persons or less, DHS to issue a single group license to: 1) a hospital and any number of its satellite facilities located within 35 miles of the main hospital building; and 2) a hospital and up to ten of its satellite facilities that are located farther than 35 miles from the main hospital building.

~~homeopathic medical examiners board; continuation~~ (NOW: homeopathic and integrated medicine examiners) (S.B. 1123) – Chapter 186

Retroactive to July 1, 2008, the Board of Homeopathic and Integrated Medicine Examiners is continued until July 1, 2010.

~~occupational therapy board; omnibus~~ (NOW: omnibus; occupational therapy board) (S.B. 1128) – Chapter 293

Makes numerous changes to the Board of Occupational Therapy Examiners (Board) statutes. The major provisions include:

***Duties of the Board*** – Outlines the duties of the Board's Executive Director. Requires the Board to conduct informal meetings and formal interviews and to prescribe educational programs required for licensure. Allows the Board to consider whether a person has been convicted of a felony or misdemeanor involving moral turpitude in determining whether an applicant is of good moral character.

Changes the supervised fieldwork requirements for an occupational therapist (OT) and an occupational therapy assistant (OTA). Permits the Board to reinstate an expired license if the licensee meets certain requirements. Allows the Board to require the successful completion of a prescribed number of hours of continuing education as a condition of license renewal.

***Prohibited Acts*** – Prohibits an unlicensed person from rendering occupational therapy services and from using any of several specified titles in connection with the person's name or place of business.

***Violations and Investigations*** – Allows the Board to receive written complaints filed against licensees and conduct investigations. Authorizes the Board to conduct an investigation at any time on its own initiative if the Board has reason to believe that there may be a violation of Board statutes. Removes the permission for any person other than an OT, OTA or health care institution to report to the Board any information that appears to show that an OT or OTA may be guilty of unprofessional conduct or may be incompetent. Removes confidentiality restrictions on the identity of a person making a complaint and removes the requirement that the Board keep a complaint confidential until it verifies or substantiates the complaint. Allows the Board to dismiss a complaint if the Board finds a violation that is not of sufficient seriousness to merit a civil penalty or suspension or revocation of a license. Changes procedures for disciplinary hearings.

Specifies that the licensee is responsible for the expense of any competency examinations ordered as a term of probation. Allows the Board to require a licensee who is undergoing probation to regularly report to the Board on matters related to the licensee's probationary requirements.

***Miscellaneous*** – Makes numerous miscellaneous changes, including changes to definitions, the use of Occupational Therapy Fund monies to compensate Board staff, in addition to Board members, continuing education requirements and Board notification of a name change and any

## **HEALTH COMMITTEE (Cont'd.)**

change in business or home address. Stipulates that an OTA is professionally and legally responsible, in addition to an OT, for supervising client care given by nonlicensed employees or volunteers, and permits the Board to take disciplinary action against the OTA, in addition to the OT, if an OTA fails to adequately supervise client care given by employees or volunteers.

### occupational therapy board; continuation (S.B. 1129) – Chapter 15

Retroactive to July 1, 2008, the Board of Occupational Therapy Examiners is continued until July 1, 2018.

### AHCCCS; DES; new hires directory (S.B. 1133) – Chapter 79

SEE COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE.

### naturopathic physicians board (S.B. 1134) – Chapter 16

Changes the name of the Naturopathic Physicians Board of Medical Examiners to the “Naturopathic Physicians Medical Board” (Board).

Authorizes the Board to investigate any person to determine if the person is engaged in the unlawful practice of naturopathic medicine. Requires the Board to inform the person of the alleged violation and permits the Board to refer the matter for prosecution.

Adds to the list of actions constituting unprofessional conduct a failure to include in a patient’s record a signed consent to treatment document that indicates that the patient or the patient’s parent or guardian has been informed of the risk of any treatment and the expected cost, if the treatment is considered experimental or investigational.

Requires an applicant for a license to obtain a passing score on the national examination, rather than a scaled grade average of 75 percent or more with no single grade less than 70 percent.

### defibrillators; good Samaritans (S.B. 1141) – Chapter 55

Exempts a Good Samaritan from civil liability when using an automatic external defibrillator to render emergency care or assistance in good faith and without compensation at the scene of any accident, fire or other life-threatening emergency.

### radiologist assistants (NOW: radiologist assistants; certification) (S.B. 1150) – Chapter 228

Beginning January 1, 2009, requires a person seeking to practice as a radiologist assistant to be certified by the Medical Radiologic Technology Board of Examiners (Board). Establishes educational requirements for radiologist assistants and grandfather applicants who apply for certification before April 1, 2009, and have completed the required academic program. Requires the Board to adopt rules to include continuing education requirements and any other requirements the Board considers appropriate. Specifies the procedures a radiologist assistant may perform under the direct supervision of a radiologist. Requires the Board to consider guidelines established by certain professional radiology organizations when adopting rules. Prohibits a radiologist assistant from interpreting images, making diagnoses or prescribing medications or therapies. Prohibits any person from claiming to be a radiologist assistant or performing the radiologic procedures authorized for a radiologist assistant without a certificate issued by the Board, unless the person is certified or



## HEALTH COMMITTEE (Cont'd.)

licensed or is performing a task as part of an advanced academic program. Authorizes the Board to take disciplinary action against a radiologist assistant.

~~burden of proof; emergency treatment.~~ (NOW: insurance; long-term care) (S.B. 1223) – Chapter 230

Beginning July 1, 2009, restricts an individual from selling, soliciting or negotiating long-term care insurance unless the person is licensed as an insurance producer for accident and health or sickness and has completed required long-term care training. Requires the individual to complete the training through a continuing education course approved by the Department of Insurance.

Applies the following to policies issued after December 31, 2008: 1) prohibits a preexisting condition limitation period in a long-term care insurance policy or certificate from exceeding six months after the effective date of coverage of a person for whom medical advice or treatment was recommended; 2) prohibits an individual long-term care insurance policy or certificate from excluding coverage for a loss or confinement that is the result of a preexisting condition unless it begins within six months after the effective date of coverage; and 3) defines “long-term care partnership program” as a qualified state long-term care insurance partnership that provides for the disregard of any assets in an amount equal to the insurance benefit payments made to an individual who is a beneficiary under a long-term care insurance policy.

homeopathic board; omnibus (S.B. 1236) – Chapter 57

Makes numerous changes to the Board of Homeopathic and Integrated Medicine Examiners (Board) statutes. The major provisions include:

***Board Duties*** – Eliminates the Board’s authority to: 1) accredit homeopathic educational institutions; 2) prescribe by rule procedures that may be performed as minor surgery; and 3) waive the examination requirement for an applicant for licensure.

***Licensing*** – Requires a licensee, beginning January 1, 2010, to include with the renewal form a statement that the licensee has completed at least 20 hours of continuing education in the preceding year. Changes license renewal dates from before January 1 of each year to the month in which the license was initially issued. Prohibits a person from submitting an application for reinstatement or a new application within five years after the person has corrected the conduct and made full legal restitution to the Board’s satisfaction. Exempts from Board regulation the practice of providing treatment of the spiritual vital force in accordance with Hahnemanian principles through the use of remedies that are diluted beyond the concentration of substances in drinking water and prepared in the manner prescribed in the Homeopathic Pharmacopoeia of the United States.

***Unprofessional Conduct*** – Specifies that it is an act of unprofessional conduct to: 1) prescribe, dispense or furnish a prescription to a person unless the licensee first conducts an examination of that person; or 2) fail to obtain informed consent from a patient before an examination or treatment.

***Medical Records*** – Requires a licensee to keep a patient’s medical records for a certain time period.

***Miscellaneous*** – Changes the name of the Board and its association. Removes an uncomplicated vasectomy from procedures that currently may be performed as minor surgery by a homeopathic physician.

## HEALTH COMMITTEE (Cont'd.)

### behavioral health board; continuation (S.B. 1286) – Chapter 70

Retroactive to July 1, 2008, the Board of Behavioral Health Examiners is continued until July 1, 2013. Requires the Auditor General to complete a performance audit no later than September 1, 2012.

### dental board; omnibus (S.B. 1287) – Chapter 191

Makes numerous changes to the Board of Dental Examiners (Board) statutes. The major provisions include:

***Regulation of Business Entities*** – Requires the Board to adopt rules for the regulation of registered business entities, including a method for the Board to receive assistance and advice from registered business entities in all matters relating to the regulation of business entities.

***Disciplinary Action*** – Expands the actions the Board may take if a business entity violates the Board's statutes or rules. Specifies that nothing creates a cause of action against a licensee or registered business entity that makes a report of unprofessional conduct or unethical conduct in good faith. Authorizes the Board to take disciplinary action against a registered business entity for unethical conduct.

***Patient Records*** – Requires a business entity to establish a written protocol for the secure storage, transfer and access of the dental records of patients, including procedures for notifying patients of the future locations of their records if the business entity terminates or sells the practice. Requires a dentist or registered business entity to provide a patient's records within 15 business days of a patient's written request. Requires a registered business entity to retain the original or a copy of a patient's dental records for specified times.

***Deceased or Incapacitated Dentists*** – Requires an administrator or executor of the estate of a deceased dentist or a person who is legally authorized to act for a dentist who has been adjudicated mentally incompetent to notify the Board within 60 days after the dentist's death or incapacitation. Allows the administrator or executor to employ a licensed dentist for no more than one year to continue the dental practice and conclude the affairs of the deceased or incapacitated dentist.

***Other*** – Specifies that a license applicant's diploma must confer a degree of "DDM" or "DDS" and eliminates alternative requirements an applicant must meet if the applicant attends a school not recognized by the Board. Allows a dentist or dental hygienist who is over age 65 and fully retired or permanently disabled to contribute services to a recognized charitable institution for a reduced renewal fee. Requires an applicant for certification to practice denture technology to pass a Board-approved examination and eliminates the requirement that the Board conduct the examination. Increases, from \$100 to \$250, the amount of daily compensation members of the Board are entitled to receive.

### AHCCCS; self-directed care services (S.B. 1329) – Chapter 58

Allows a member of the Arizona Long Term Care System to employ another person to provide self-directed attendant care services that would otherwise be considered within the scope of nursing care, under certain conditions.

## HEALTH COMMITTEE (Cont'd.)

### infection prevention; advisory committee (S.B. 1356) – Chapter 87

Establishes the Infection Prevention and Control Advisory Committee (Committee) to review efforts to address the problem of community and health care associated infections and to make recommendations regarding awareness, education and best practices for the prevention and control of infections. Instructs the Committee to report its findings and recommendations by December 31, 2009, and repeals the Committee on October 1, 2010.

### ~~AHCCCS; tobacco cessation medication; coverage~~ (NOW: tobacco cessation medication; coverage; AHCCCS) (S.B. 1418) – Chapter 131

Allows the Arizona Health Care Cost Containment System (AHCCCS) Administration, beginning October 1, 2008, to expend monies, other than state General Fund monies, to provide nicotine replacement therapies and tobacco use medications to eligible members under AHCCCS, Arizona Long Term Care System and Medicare programs.

### cosmetic procedures; lasers; injections; regulation (S.B. 1419) – Chapter 232

***Certification of Laser Technicians*** – Requires an aesthetician who wishes to perform cosmetic laser or intense pulse light (IPL) device procedures to apply for and receive a certificate from the Arizona Radiation Regulatory Agency (ARRA). Allows an aesthetician or a laser technician who has been using laser and IPL devices before the effective date to continue to do so if the aesthetician or laser technician receives a certificate from ARRA within one year.

***Training*** – Requires an aesthetician or laser technician who wishes to perform cosmetic laser or IPL device procedures to successfully complete specified didactic and hands-on training. Hands-on training must be supervised. Requires a training program to provide a provisional certificate to an applicant verifying the successful completion of didactic training. Requires an aesthetician or laser technician to submit the provisional certificate to ARRA as well as certification by the supervisor of the hands-on training. Requires ARRA to issue a laser technician certificate if the applicant has completed the training and to maintain a current register of laser technicians in good standing and the procedures in which each laser technician is certified.

***Supervision*** – Allows a certified aesthetician or laser technician to use a laser or IPL device under indirect supervision for hair removal procedures or under direct supervision for other cosmetic purposes. Specifies circumstances under which a health professional may supervise a laser technician in the use of a laser or IPL device for cosmetic purposes. Allows only a health professional acting within the health professional's scope of practice to administer or supervise another health professional in the administration of prescription medication or a prescription-only device for a cosmetic purpose.

***Investigations and Disciplinary Action*** – Requires the Board of Cosmetology (Board) to investigate any complaint about a licensed aesthetician who performs cosmetic laser or IPL device procedures and requires the Board to report complaints to ARRA. Specifies ARRA's investigatory and disciplinary responsibilities and requires ARRA to report to the health professional's regulatory board any complaint received about the training or performance of a laser technician. Requires any person who employs a person to operate a laser or IPL device to report any misuse to the operator's regulatory board and to ARRA.

## HEALTH COMMITTEE (Cont'd.)

*Fees* – Allows ARRA to establish a fee for the registration of laser technicians and aestheticians as laser technicians and the issuance of certificates. Establishes the Laser Safety Fund.

nursing programs; jurisdiction (NOW: exemption; nursing assistant programs) (S.B. 1431) – Chapter 211

Exempts from licensure by the State Board for Private Postsecondary Education professional driving training schools and a school that solely provides an instructional program for certified nursing assistants.

blood donors; minors (NOW: minors; blood donors) (S.B. 1449) – Chapter 17

Allows a competent person who is at least 18 years old to donate blood and allows a minor who is 16 or 17 years of age to donate blood only with the written consent of the minor's parent or legal guardian.

acupuncture board; continuation (H.B. 2019) – Chapter 19

Retroactive to July 1, 2008, the Acupuncture Board of Examiners is continued until July 1, 2018.

pharmacy board; omnibus (H.B. 2020) – Chapter 20

Exempts from pharmacist licensure requirements a person who manufactures drugs and holds the required permit issued by the Arizona State Board of Pharmacy but is not a pharmacist. Alters requirements for the display of a pharmacist's license for public review.

state hospital employees; disease testing (H.B. 2036) – Chapter 203

Allows an employee of the State Hospital to petition the court for an order authorizing testing of another person for HIV, common blood borne diseases or other diseases specified in the petition if: 1) there are reasonable grounds to believe an exposure occurred; and 2) the person is a patient who is confined to the State Hospital and who is alleged to have interfered with the official duties of the State Hospital employee by biting, scratching, spitting or transferring blood or other bodily fluids on or through the skin or membranes of the employee.

community colleges; equalization; technical correction (NOW: graduate medical education; federal match) (H.B. 2208) – Chapter 158

Allows local governments to provide monies for graduate medical education (GME) in order to qualify for federal matching monies for costs incurred pursuant to a specific contract between the Arizona Health Care Cost Containment System (AHCCCS) Administration and providers or other entities to provide GME services as an administrative activity. Requires the AHCCCS Administration and the Centers for Medicare and Medicaid Services to approve the administrative GME services.

osteopathic board; omnibus (H.B. 2268) – Chapter 100

Makes numerous changes to the Arizona Board of Osteopathic Examiners in Medicine and Surgery (Board). The major provisions include:

## HEALTH COMMITTEE (Cont'd.)

***Duties of the Board and Executive Director*** – Changes timeframes for deleting the public record of a complaint filed against a licensee. Requires the Board to maintain a public directory, rather than a roster, of all physicians and surgeons who are or were licensed by the Board and specifies the information the directory must include. Eliminates certain duties of the Board and delegates specified tasks to the Executive Director. Allows the Board to issue an administrative warning under specified circumstances.

***Training Permits*** – Allows, rather than requires, the Board to grant a training permit to: 1) a person participating in an internship, residency or clinical fellowship training program; or 2) a person who is not licensed in Arizona and who is participating in a short-term training program of four months or less for continuing medical education conducted in an approved school or hospital. Allows the Board to grant an extension of the training permit under certain circumstances and limits the practice of a permittee with an extended permit.

***Retired Physicians*** – Allows the Board to waive a retired physician's biennial renewal fee under certain conditions and exempts a retired physician from any continuing medical education requirements. Authorizes a retired physician whose biennial fee has been waived to perform volunteer work of not more than ten hours each week and to teach or provide instruction at an approved school of osteopathic medicine. Authorizes the Board to reinstate a retired physician to active status if the physician meets specified requirements and allows the Board to issue a limited license if an applicant for reinstatement to active status has not been licensed in another jurisdiction of the U.S. or Canada in the previous three years.

***Dispensing of Drugs and Devices*** – Specifies that a physician who registers with the Board to dispense drugs and devices must do so annually. Exempts a dispensing physician from the registration fee if the physician is dispensing in a nonprofit practice and neither the patient nor a third party pays or reimburses the physician or the nonprofit practice for the drugs or devices dispensed. Removes the requirement that a physician provide direct supervision of a nurse or attendant involved in the dispensing process. Requires a physician to notify the Board in writing of the remaining inventory of drugs and devices if the physician fails to renew a registration to dispense or ceases to dispense for any reason.

### nursing care administrators; disciplinary actions (H.B. 2274) – Chapter 44

Allows the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers (Board) to take disciplinary action against a nursing care institution administrator (administrator) or assisted living facility manager (manager) without conducting a formal hearing if the administrator or manager fails to respond to notice of the hearing within 35 days. Extends the time period for the Board to send a copy of a complaint attached to an order of the time and place for a hearing and lengthens the time period for an administrator or a manager to respond to a written notice of disciplinary action. Requires the Board to consider an administrator's or manager's failure to respond to the notice within 35 days as an admission by default to the allegations stated in the complaint and allows the Board to set aside an admission by default if the administrator or manager demonstrates certain conditions within 180 days.

### domestic relations; temporary orders (NOW: budget reconciliation; health) (H.B. 2275) – Chapter 288

SEE APPROPRIATIONS COMMITTEE.

## **HEALTH COMMITTEE (Cont'd.)**

### behavioral health examiners; omnibus (H.B. 2325) – Chapter 134 RFE

Subject to the requirements for enactment (Proposition 108), which requires the affirmative vote of at least two-thirds of the members of each house of the Legislature, beginning April 29, 2008, increases the maximum fee the Board of Behavioral Health Examiners (Board) may charge for initial issuance or renewal of a license.

Allows the Board to establish a confidential program to monitor chemically dependent licensees who enroll in a rehabilitation program. Authorizes the Board to take further action if the licensee refuses to enter into a stipulated agreement or fails to comply with the terms of an agreement and exempts from confidentiality requirements a licensee who does not comply with the agreement.

Allows the Board to issue a reciprocal license to a person who is licensed or certified in behavioral health by another state regulatory agency and who meets certain requirements. Requires a person issued a reciprocal license to practice only under the direct supervision of a licensee. Allows a person with a reciprocal license to apply for a regular license if the person completes a specified amount of supervised work experience and demonstrates competency to practice behavioral health as determined by the Board.

Allows, beginning January 1, 2009, a person who wishes to be licensed as a substance abuse technician to fulfill the educational requirement with a bachelor's degree in a behavioral science with an emphasis on counseling.

Requires the Board to accept, expend and account for any contributions, money or property from any public or private source and requires the monies to be deposited in special funds for the purpose specified.

### emergency medical services; protocols (H.B. 2365) – Chapter 103 E

Beginning April 28, 2008, requires the Emergency Medical Services (EMS) Council to recommend standards to allow an ambulance to transport a patient to a health care institution that is licensed as a special hospital and that is physically connected to an emergency receiving facility.

Specifies that data collected by the Department of Health Services (DHS) or a political subdivision for the EMS system or trauma system is available to the public except for patient records and data collected for quality assurance review. Allows DHS to authorize entities to use State Trauma Registry data for certain purposes. Specifies that individually identifying information collected by the State Trauma Registry is confidential and that a disclosure of confidential information is a class 3 misdemeanor. Requires DHS to provide quarterly trauma system data reports to each designated trauma center, in addition to each hospital, submitting data.

Adds representatives to the Trauma Advisory Board.

### DHS; licensing; electronic licensing (H.B. 2366) – Chapter 66 E

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.

### health care institutions; definitions (H.B. 2367) – Chapter 270

Removes and modifies several definitions relating to the Department of Health Services.

## **HEALTH COMMITTEE (Cont'd.)**

### stretcher vans; transport of patients (H.B. 2408) – Chapter 106

Specifies that a stretcher van may transport a person if the person does not require medical monitoring enroute to the destination facility. Prohibits a stretcher van or wheelchair van from transporting a person who is being medically monitored at the sending facility and will continue to be medically monitored at the destination facility.

### ambulance rates; adjustments (H.B. 2409) – Chapter 67

Changes the formula for calculating whether an increase in ambulance rates requires a public hearing by using the percentage growth in the Transportation Consumer Price Index of the U.S. Department of Labor, Bureau of Labor Statistics, instead of the percentage growth in the GDP Price Deflator.

### ~~misconduct involving weapons; ammunition~~ (NOW: special health care districts; terms) (H.B. 2481) – Chapter 304

Requires the board of directors of a special health care district to serve staggered four-year terms, except that the term for directors elected from supervisorial districts 3 and 4 at the 2008 general election is two years.

### durable medical equipment; report (H.B. 2503) – Chapter 180

Requires the Director of the Arizona Health Care Cost Containment System (AHCCCS) Administration to submit a written report to the Governor and Legislature by November 15, 2008, that contains specified information relating to durable medical equipment and persons who receive services from AHCCCS and the Arizona Long Term Care System.

### birth defects; folic acid supplements (H.B. 2521) – Chapter 52

Allows the Department of Health Services (DHS) and the Arizona Early Intervention Program to use data in the Chronic Disease Surveillance System to notify families of children with birth defects about available services. Requires DHS to authorize other entities, in addition to local health departments, to distribute folic acid supplements and provide counseling and information services.

### food safety regulation (H.B. 2582) – Chapter 149

SEE GOVERNMENT COMMITTEE.

### insurance contracts; small employer coverage (H.B. 2658) – Chapter 118

SEE COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE.

### ~~technical correction; hearing evaluation~~ (NOW: physician assistants; qualifications) (H.B. 2682) – Chapter 167

Allows the Arizona Regulatory Board of Physician Assistants (Board) to consider the license application of a person who: 1) was the subject of disciplinary action in another jurisdiction if the applicant's act or conduct was subsequently corrected, monitored and resolved to the satisfaction of

## **HEALTH COMMITTEE (Cont'd.)**

that jurisdiction's regulatory board; or 2) surrendered, relinquished or gave up a license in lieu of disciplinary action by a regulatory board in another jurisdiction if that regulatory board subsequently reinstated the applicant's license. Requires the Board to either grant or deny a license to an applicant after receiving a completed application. Requires the Board, if an applicant has submitted an incomplete application, to promptly notify the applicant, in writing, of the deficiencies in the application.

### newborns; testing; confidentiality (H.B. 2802) – Chapter 225

Requires the Director of the Department of Health Services to designate the State Laboratory as the only testing facility for the newborn screening program. Specifies that test results in the newborn screening program are confidential and may only be released to certain individuals.

### patient care; presumptions (H.B. 2823) – Chapter 281

Requires the superior court, upon the filing of a petition, to enter a temporary order directing compliance with the prohibition on a surrogate, who is not the patient's agent or guardian, making decisions to withdraw the artificial administration of food or fluid. The notice of the temporary order must be provided by personal service on the surrogate, the patient, the health care providers immediately responsible for the patient's care and other persons as required by the superior court. Removes the requirement that only if no other person has assumed financial responsibility for a patient may a health care provider contact a patient's domestic partner to serve as a surrogate.

### ~~autism; covered benefit denial prohibited~~ (NOW: autism; covered benefit denial prohibition) (H.B. 2847/S.B. 1263) – Chapter 4

Prohibits, beginning July 1, 2009, certain health insurers from excluding or denying coverage for a treatment or imposing cost-sharing measures based solely on the diagnosis of an Autism Spectrum Disorder (ASD) or excluding or denying coverage for medically necessary behavioral therapy services. Exempts the following from these requirements: 1) individual or small employer policies; 2) limited benefit coverage; 3) long-term care insurance, life insurance and annuities offered by a group disability insurer; and 4) services provided outside of Arizona.

Requires behavioral therapy services to be provided or supervised by a licensed or certified provider in order to be eligible for coverage. Limits coverage for behavioral therapy to: 1) a \$50,000 maximum benefit per year for an eligible person up to the age of nine; and 2) a \$25,000 maximum benefit per year for an eligible person who is between the ages of 9 and 16.

Requires the act to be known as "Steven's Law."

## **LEGISLATION VETOED**

### ~~behavior analysts; behavioral health board~~ (NOW: board of behavior analysts) (H.B. 2470) – VETOED

Establishes the Behavior Analyst Board (Board) to regulate the practice of behavior analysis. Requires the Executive Director of the Board of Chiropractic Examiners to serve as the Executive Director of the Board, and requires the staff of the Board of Chiropractic Examiners to carry out the administrative responsibilities of the Board. Enumerates duties of the Board. Requires, beginning



## **HEALTH COMMITTEE (Cont'd.)**

January 1, 2010, a person who wishes to practice as a behavior analyst to be licensed by the Board. Outlines educational and training requirements of behavior analysts.

The Governor indicates in her veto message that the costs of operating the proposed Board would exceed any reasonable fees that could be collected from the current number of potential licensees. She suggests that behavior analysts instead consider licensure by the existing Board of Behavioral Health Examiners or the Board of Psychologist Examiners.

# **Higher Education Committee**

**Senator Tom O'Halleran, Chairman**



**Dawn Wallace, Research Analyst**

**Alisa Yasin, Intern**

# HIGHER EDUCATION COMMITTEE

## LEGISLATION ENACTED

task force; retraining disabled veterans (S.B. 1277) – Chapter 128

Establishes the seven-member Task Force for Retraining Disabled Military Veterans (Task Force) under the jurisdiction of the Arizona Board of Regents. Specifies the duties of the Task Force and requires the Task Force to submit an annual report by December 1 regarding its activities to the Governor and Legislature. The Task Force is repealed on September 30, 2018.

nursing programs; jurisdiction (NOW: exemption; nursing assistant programs) (S.B. 1431) – Chapter 211

SEE HEALTH COMMITTEE.

WICHE; continuation (H.B. 2075) – Chapter 141

Retroactive to July 1, 2008, the Western Interstate Commission for Higher Education is continued for ten years through July 1, 2018.

regents; officers; technical correction (NOW: budget reconciliation; education) (H.B. 2211) – Chapter 287 W/O

SEE APPROPRIATIONS COMMITTEE.

college textbooks; information. (NOW: information; college textbooks) (H.B. 2230) – Chapter 146

Requires publishers of postsecondary course materials to disclose written information to public university and community college faculty members and staff, in accordance with the Arizona Board of Regents (ABOR) and community college district policies, that include: 1) a listing of all course materials offered and whether the material is offered in a bundled package or sold separately; 2) the suggested retail price and estimated wholesale price or the price that the publisher makes the materials available to the public; 3) the time period for which pricing is applicable; 4) copyright dates; and 5) substantive content differences between editions. By January 1, 2009, the public universities and community colleges must adopt policies to instruct faculty and staff to make information requests according to the publisher disclosure policy. The bill also prohibits university and community college faculty and staff from receiving any payments, loans, advances or goods for selecting or purchasing specific course materials with certain exceptions.

JTEDs; bonding (H.B. 2234) – Chapter 302

Expands Class B bonding authority to finance any facility at a campus owned or operated and maintained by a Joint Technological Education District (JTED), except that Class B bond proceeds may not be used for any JTED facility located on a school district campus unless the facility is used solely to provide career and technical education and is available to all pupils. If a facility is not owned by the JTED, the JTED must enter into an intergovernmental agreement for ten years or the bond term, whichever is greater, with specific conditions related to the usage of the facility and compensation to the JTED if the facility is no longer used for JTED purposes. School district square

## **HIGHER EDUCATION COMMITTEE (Cont'd.)**

footage that is leased to a JTED may not be included for building renewal funding purposes and included in the new school construction formula.

### early graduation scholarships; academic year (H.B. 2736) – Chapter 140

Replaces the current requirement that a student no longer in good academic standing must reimburse the Early Graduation Scholarship Program (Program) for any grant monies received no later than 36 months after the student's graduation date from high school, with a new requirement that the student must reimburse the Program for any unused grant monies received if the student does not complete the "academic year" as defined by federal law. The bill also modifies the reimbursement requirements to: 1) eliminate the submission of the cost of attendance invoice and promissory note; and 2) remove the ability of the Arizona Commission for Postsecondary Education to grant good cause exceptions.

## **LEGISLATION VETOED**

### postsecondary education programs; PEG; PFAP (S.B. 1012) – VETOED

Retroactive to July 1, 2008, continues the Arizona Commission for Postsecondary Education (ACPE) until July 1, 2018. The bill modifies the eligibility requirements for the Postsecondary Education Grant (PEG) and allows the ACPE to make good cause extensions for the time period in which a student who has received a PEG or Private Postsecondary Education Student Financial Assistance Program (PFAP) grant must obtain a baccalaureate degree.

In her veto message, the Governor indicates that a ten-year continuation period is too long for the ACPE, which is the subject of inquiry regarding its mission and membership. The Governor states that she would welcome a bill that incorporates all the changes in S.B. 1012, but with a one-year continuation of the ACPE.

### prime contracting deduction; university improvements (S.B. 1484) – VETOED

Redirects, until January 1, 2014, prime contracting transaction privilege tax revenues associated with the construction of a public university building to the city or town in which the building is constructed to pay for up to 80 percent of infrastructure improvements related to building construction costs and associated improvements for the benefit of a public university.

The Governor states in her veto message that the bill is unfair as it only benefits cities that have state universities. She further states that other worthy organizations would be justified in requesting special tax treatment under this bill and that the state General Fund financial burden would limit the state's ability to fund its priorities.

# **Judiciary Committee**

**Senator Chuck Gray, Chairman**



**Christina Estes-Werther, Research Analyst**

**Jessica Ripplinger, Assistant Analyst**

**Heather Bernacki, Intern**

# JUDICIARY COMMITTEE

## LEGISLATION ENACTED

residency restrictions; schools; child care (S.B. 1011) – Chapter 6

Expands the persons subject to 1,000 feet residency restrictions from a school or child care facility to include persons convicted of an offense in another jurisdiction that if committed in Arizona would be considered a dangerous crime against children and stipulates how the 1,000 feet restriction is measured.

arrest warrants; child support; fiduciary (S.B. 1013) – Chapter 7

Enables the use of electronic processing of child support and fiduciary arrest warrants.

unlawful sexual conduct; correctional facilities (S.B. 1016) – Chapter 209

Clarifies that the offense of unlawful sexual conduct with an offender requires intent and adds knowingly as a culpable mental state.

writ of restitution; judgment (S.B. 1018) – Chapter 8

Clarifies, that when the court issues a writ of restitution, the defendant's guilt is in regard to a forcible entry and detainer action, commonly known as eviction.

community notification. (S.B. 1021) – Chapter 9

Makes a technical change to the community notification statute.

jury fees; technical correction (S.B. 1022) – Chapter 76

Corrects an inaccurate statutory reference with regard to per diem expenses granted to persons serving on a state grand jury.

cities; campaign finance; website (S.B. 1024) – Chapter 184

SEE GOVERNMENT COMMITTEE.

court reporter certification (S.B. 1050) – Chapter 54

SEE COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE.

~~elections; counting center; observation~~ (NOW: elections; observation; counting center) (S.B. 1053) – Chapter 273 E

Effective June 19, 2008, changes election law as follows: 1) allows the proceedings at the counting center to be observed by up to three additional people and establishes a selection procedure for the observers; 2) changes, without adjusting the timeframes, the time period to deliver official early ballots to the elections official and for an elector or registrant to respond to notices regarding

## **JUDICIARY COMMITTEE (Cont'd.)**

voter registration and to request an early ballot; 3) prohibits an early ballot from being distributed before the beginning of early voting and requires the early voting locations to be open and available when the county sends the early ballots; 4) allows a federal write-in early ballot request received after the election deadline to serve as a valid voter registration form for any subsequent election; 5) requires, for nomination petitions, the filing for special district elections to be with the county election officer instead of the Secretary of State (SOS) and circulators to verify the signature of a signer who is not affiliated with a political party; 6) removes SOS requirements to return each computer election program within six months after an election; 7) requires political committees to include the official serial number on the statement of organization to be replaced with the ballot proposition number by the SOS; 8) removes a legislative candidate's ability to file campaign finance reports with the county of the candidate's residence; 9) requires, for initiatives and referendums, the person or organization to file its statement of organization or its signed exemption statement at the time of application; 10) changes, for a vacant position in the office of representative in Congress, the timeline for filing a nomination paper, petition or court action, the mailing of ballots and the calling of a special election and specifies requirements for filling a vacancy under extraordinary circumstances; 11) allows the public to access the unique identification number that is assigned to each individual voter in the statewide database; and 12) makes conforming changes to the primary election statutes for a biennial election and consolidated elections.

### civil rights advisory board; continuation (S.B. 1055) – Chapter 23

Retroactive to July 1, 2008, the Arizona Civil Rights Advisory Board is continued until July 1, 2018.

### law enforcement merit system; continuation (S.B. 1056) – Chapter 10

Retroactive to July 1, 2008, the Law Enforcement Merit System Council is continued until July 1, 2015.

### law enforcement officer; definition; representation (S.B. 1057) – Chapter 40

Excludes a probation, detention or corrections employee during the employee's probationary period from interview procedures for an interview that could result in dismissal, demotion or suspension.

### elections; counting center video; multiple (S.B. 1059) – Chapter 41

Corrects the conflicting enactment with regard to live video recording by repealing Laws 2007, Chapter 259.

### escape; definition (S.B. 1067) – Chapter 24

Excludes, when determining historical prior felony convictions, time spent on escape status when calculating if a class 2 or 3 felony was committed within the preceding ten years or if a class 4, 5 or 6 felony was committed within five years of the present offense. Defines escape and rectifies conflicting enactments relating to dangerous and repetitive offenders.

## **JUDICIARY COMMITTEE (Cont'd.)**

### criminal appeals (S.B. 1068) – Chapter 25

Restricts a defendant's right to appeal if the defendant's absence prevented sentencing from occurring 90 days after conviction and the defendant fails to prove by clear and convincing evidence at the time of sentencing that the absence was involuntary.

### concealed weapons permit; qualifications; instructors (S.B. 1070) – Chapter 263

Modifies, for an applicant seeking a permit to carry a concealed weapon, the documentation requirement that demonstrates completion of a firearm safety training program within the past five years. Modifies firearm safety instructor qualifications to include specific certifications.

### sample ballot stripe; primary elections (S.B. 1071) – Chapter 11 E

Beginning April 4, 2008, allows the official sample primary election ballot to be printed on white paper with a different colored stripe for each party represented on the ballot.

### improvised explosive device; definition (S.B. 1153) – Chapter 274

Defines "improvised explosive device" (IED) as a device that incorporates explosive or destructive, lethal, noxious, pyrotechnic or incendiary chemicals that are designed to destroy, disfigure, terrify or harass and adds IED to the definitions of a simulated explosive device (SED) and prohibited weapon. Increases the penalty from a class 1 misdemeanor to a class 5 felony for misconduct involving a SED. Requires, for a violation of misconduct involving weapons committed with dry ice, an intent to cause injury, death or damage to the property of another person.

### judicial performance reviews; court commissioners (S.B. 1186) – Chapter 82

Requires the Supreme Court (Court) to establish a performance review process for superior court commissioners in Pima and Maricopa counties to be maintained on the Court's website.

### DNA testing; arrest (S.B. 1332) – Chapter 276

Applies the requirement that a person submit a DNA sample within five days of release if charged with a felony or specified misdemeanor offense, to a person who is summoned to appear in court for an initial appearance. Inserts, into the juvenile statutes, the offenses that require the submission of a DNA sample upon arrest.

### sexual conduct; minor; school teacher (S.B. 1336) – Chapter 210

Classifies, as a class 2 felony, sexual conduct with a minor who is at least 15 years of age if the perpetrator is a clergyman, priest or the minor's teacher.

### accomplice liability (S.B. 1354) – Chapter 296

Expands accomplice liability to include any offense that is a natural and probable or reasonably foreseeable consequence of the offense for which that person was an accomplice.



## **JUDICIARY COMMITTEE (Cont'd.)**

### attempted dangerous crimes against children (S.B. 1355) – Chapter 195

Classifies, if a victim is a minor under 12 years of age, the following offenses as a dangerous crime against children in the second degree: 1) second degree murder; 2) sexual assault; 3) sexual conduct; and 4) manufacturing methamphetamine under circumstances that cause physical injury.

### biological evidence; retention; preservation (S.B. 1412) – Chapter 282

Beginning January 1, 2009, requires identified biological evidence that is secured in connection with a felony sexual offense or homicide to be retained for specified periods of time. Allows the disposal of bulk evidence if representative samples are retained and establishes notification procedures to allow the disposal of physical evidence after the conclusion or filing expiration of the convicted defendant's direct appeal and first postconviction relief proceeding. Specifies fingerprint requirements for certain offenses if the person arrested refuses to voluntarily provide fingerprints.

### ~~Vietnam Veterans' Memorial Day~~ (NOW: marriage; one man; one woman) (S.C.R. 1042)

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.

### internet age misrepresentation (H.B. 2129) – Chapter 97

Establishes the offense of unlawful age misrepresentation as an adult using an electronic communication device to knowingly misrepresent the person's age for the purpose of committing a sexual offense. Classifies the offense as a class 3 felony, subject to sentencing as a dangerous crime against children if the victim is under 15 years of age, and requires a person to register as a sex offender upon conviction.

### constable ethics; board; membership (H.B. 2190) – Chapter 171

Requires the Arizona Multihousing Association (Association) member who serves on the Constable Ethics Standards and Training Board to be an Association board member at the time of appointment by the Governor.

### sentencing; reorganization (H.B. 2207) – Chapter 301

Beginning January 1, 2009, reorganizes and makes numerous changes to Arizona's sentencing statutes.

### uniformed overseas voters; electronic transmittal (H.B. 2213) – Chapter 62

Expands, to an electronic format, the method by which voters subject to the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) may vote by early ballot and provides that a person who duplicates a UOCAVA voter's completed ballot transmitted by an electronic format does not commit an unlawful voting act.

## **JUDICIARY COMMITTEE (Cont'd.)**

electronic communications; harassment; order; protection (H.B. 2248) – Chapter 205

Requires the court to review any evidence of harassment by electronic contact or communication when determining whether to issue a petition for an injunction against harassment or an order of protection.

precinct registers; information; fee (H.B. 2257) – Chapter 50

Decreases, from ten cents per name to one cent per name, the amount charged by the county recorder for an official precinct list when provided in an electronic data medium.

initiative and referendum amendments (H.B. 2288) – Chapter 244 E

Effective May 27, 2008, makes changes to election law as follows: 1) establishes a process for suspending a political committee that has failed to file three consecutive campaign finance reports with the Secretary of State's (SOS) office, excluding Clean Elections reports; 2) classifies, as a class 1 misdemeanor, inducing a person to sign a petition by knowingly misrepresenting the measure; 3) changes the filing and notarization requirements for an argument measure in the publicity pamphlet; and 4) changes the timeframe for the county recorder and SOS to process, disqualify and verify signatures for initiative and referendum petitions.

~~identity theft; factual innocence~~ (NOW: factual innocence; judicial determination; procedure) (H.B. 2321) – Chapter 237

Establishes procedures for judicial determinations of factual innocence or factual improper party status, if a person's personal identifying information was taken and the person's name was used by another person who was implicated in a criminal offense or the name was entered into a judgment on record in a criminal case or civil action.

condominiums; planned communities; political petitions (H.B. 2440) – Chapter 238

SEE GOVERNMENT COMMITTEE.

aggravated assault; constables. (H.B. 2444) – Chapter 179

Classifies, as aggravated assault, assault against a constable or a person summoned and directed by the constable while engaged in the execution of any official duties if the person commits the assault knowing or having reason to know the victim is a constable or a person summoned and directed by the constable.

election security provisions (H.B. 2451) – Chapter 110

Changes election security law by requiring: 1) observation of county management software or computer programming; 2) sample ballots to contain a particular statement; 3) comparison of votes cast on the machine or tabulator with the votes cast on the poll list and the provisional ballots cast; 4) certain qualifications of persons engaged in the processing and counting of ballots; 5) the maintenance of the chain of custody record for all election equipment and ballots during early voting through the completion of provisional voting tabulation; and 6) duplication and substitution of an early ballot that is damaged or defective that cannot be properly counted by the equipment. Rectifies conflicting enactments relating to live video recording.

## **JUDICIARY COMMITTEE (Cont'd.)**

### redaction orders; expiration; notice; funds (H.B. 2478) – Chapter 113

Requires county officers to mail notification to specific persons or their employing agency of the pending expiration of an order that prohibits public access to their personal identifying information. Allows monies in the Anti-Racketeering Revolving Fund to be used for the payment of relocation expenses of any law enforcement officer and the officer's immediate family if the law enforcement officer is the victim of a bona fide threat because of the officer's duties.

### aggravated luring; minors; sexual exploitation (H.B. 2480) – Chapter 219

Establishes, as a class 2 felony, the offense of aggravated luring of a minor for sexual exploitation as a person who uses an electronic communication device to transmit a visual depiction of material that is harmful to minors and offers or solicits sexual conduct with a minor by means of the communication. Requires registration as a sex offender upon conviction. Provides a defense to a prosecution for defendants under 19 years of age if the conduct is consensual.

### prohibited possessors; undocumented aliens (H.B. 2486/S.B. 1408) – Chapter 3

Removes references to federal law with regard to illegal aliens possessing firearms. Enumerates as prohibited possessors, with exceptions, undocumented and nonimmigrant aliens traveling with or without documentation in Arizona for business, pleasure or study while maintaining a foreign residence.

### justice courts; criminal actions; jurisdiction (H.B. 2554) – Chapter 138

Excludes any assessments or time payment fees from being considered part of the fine for purposes of determining jurisdiction in a justice of the peace court.

### constables; peace officers status (H.B. 2623) – Chapter 150

Specifies that a constable has peace officer status only in the performance of the constable's official duties and requires deputies appointed by constables to meet minimum peace officer qualifications as prescribed by the Arizona Peace Officer Standards and Training Board.

### concealed weapons permit; felony convictions (H.B. 2634) – Chapter 269

Allows a person who has been convicted of a felony to obtain a concealed carry weapons permit if either the conviction has been expunged, set aside or vacated or the person's rights have been restored and the person is not a state or federal prohibited possessor.

### census; precinct line freeze (H.B. 2793) – Chapter 154

Retroactive to August 1, 2008, prohibits, from August 1, 2008, to December 31, 2010, the board of supervisors of each county from changing precinct lines but allows the subdivision of precincts for administrative purposes or to provide multiple polling places. Requires, for multiple polling places within a precinct, the board of supervisors to consider the particular population characteristics of each precinct.

## **JUDICIARY COMMITTEE (Cont'd.)**

~~ballot measures; publicity pamphlets~~ (NOW: civil action; affirmative defense) (H.B. 2813) – Chapter 308

Allows, in any civil action, the finder of fact to find the defendant not liable for harm incurred by the claimant committing a felony or misdemeanor act if the claimant was at least 50 percent responsible for the event that caused the claimant's harm.

forgery; drop house property transactions (H.B. 2842) – Chapter 170

Establishes, as a class 4 felony, the offense of using property or real property as a drop house. Provides a defense for a prosecution if the person reports that the property is being used as a drop house after acquiring actual knowledge of the property's use. Expands the definition of human smuggling.

### **LEGISLATION VETOED**

~~DUI abatement council; chairperson~~ (NOW: definition; partial-birth abortion) (S.B. 1048) – VETOED

Redefines partial-birth abortion to correspond to federal legislation and changes the exceptions to a partial-birth abortion ban, if necessary to save the life of a mother, by: 1) limiting an illness to a physical illness; 2) limiting an injury to a physical injury; and 3) adding a life-endangering physical condition caused by or arising from the pregnancy itself. Allows a physician accused of performing a partial-birth abortion to seek a hearing before the physician's board with findings admissible at trial and, if convicted, requires a fine, imprisonment for not more than two years or both. Includes a severability clause.

The Governor indicates in her veto message for S.B. 1048 that, as stated in her April 4, 2008, veto letter of H.B. 2769, Arizona physicians are already subject to criminal penalties under the federal statute and she is loathe to introduce more criminal penalties, including incarceration by the state, into the relationship between a woman and her physician.

concealed weapons permit; renewal option (S.B. 1106) – VETOED

Creates the option of a lifetime permit to carry a concealed weapon (CCW).

The Governor states in her veto message that S.B. 1106 would eliminate the opportunity to conduct criminal background checks that are conducted every five years when a CCW permit is renewed. She states that a lifetime permit would make it harder for CCW permit holders to carry weapons outside of Arizona and purchase a firearm without also passing an independent Federal Bureau of Investigation background check. The Governor further indicates that the concept of a lifetime CCW permit is unwise public policy.

misconduct involving weapons; means; transportation (H.B. 2389) – VETOED

Makes changes to misconduct involving weapons, as follows: 1) allows a person to carry a concealed deadly weapon in or on a means of transportation or on property rented by that person without a concealed carry weapons (CCW) permit; 2) expands the type of holster and manner that a weapon may be carried without a CCW permit; 3) classifies, as a class 6 felony, possessing ammunition if the person is a prohibited possessor.

## JUDICIARY COMMITTEE (Cont'd.)

Also, expands the age range for a defense to a prosecution for sexual conduct with a minor if the conduct is consensual.

The Governor indicates in her veto message that she vetoed H.B. 2389 at the request of law enforcement. The Governor states that the measure would have added to the level of uncertainty and danger that law enforcement officers face during traffic stops and deprive officers of the ability to confiscate weapons from individuals who ignore CCW laws in transit.

### justification; defensive display of firearm (H.B. 2629) – VETOED

Justifies, with exceptions, the defensive display of a firearm.

The Governor states in her veto message that H.B. 2629 is a dangerous escalation that would put the public's safety and law enforcement at risk by creating the ability to display, take hold of and expose a firearm during a verbal dispute. The Governor also indicates that H.B. 2629 is largely unnecessary because current justification laws allow, with some exceptions, a person to display a firearm against another person.

### concealed weapons; petty offense (H.B. 2630) – VETOED

Lowers the penalty for carrying a concealed deadly weapon without a concealed carry weapons (CCW) permit from a class 1 misdemeanor to a petty offense, unless it occurs in the commission or attempted commission of a serious offense or violent crime. Prohibits the forfeiture of a weapon from a person convicted of a petty offense for carrying a concealed weapon without a CCW permit.

The Governor indicates in her veto message that H.B. 2630 is nearly identical to S.B. 1629, which she vetoed last year stating that lawful gun owners who wish to carry concealed weapons should comply with Arizona's CCW laws. Additionally, the Governor states that she vetoed this measure at the request of Arizona law enforcement and that serious criminals often carry concealed weapons without permits and law enforcement officers must have the power to arrest the violator and confiscate the deadly weapon. The Governor concludes by saying that the current level of penalties promotes the safety of citizens and law enforcement officers.

### partial-birth abortion; definition (H.B. 2769/S.B. 1099) – VETOED

Increases, from a class 6 felony to a class 5 felony, the offense of partial-birth abortion and changes the exceptions to a partial-birth abortion ban, if necessary to save the life of a mother, by: 1) limiting an illness to a physical illness; 2) limiting an injury to a physical injury; and 3) adding a life-endangering physical condition caused by or arising from the pregnancy itself. Redefines partial-birth abortion to correspond to federal legislation and includes a severability clause.

The Governor indicates in her veto message that H.B. 2769 does not conform to the federal partial-birth abortion ban because it does not provide an opportunity for physicians who are prosecuted to seek the professional opinion of their peers as part of their defense and it does not cap the criminal penalty for violation to two years in prison. The Governor also states that the federal partial-birth abortion ban applies throughout the U.S., including Arizona.

# **Natural Resources & Rural Affairs Committee**

**Senator Jake Flake, Chairman**



**Megan Gnagy, Research Analyst**  
**Jennifer Thomsen, Intern**

# NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE

## LEGISLATION ENACTED

air quality; clean burning gas (S.B. 1095) – Chapter 77

Conditioned on the U.S. Environmental Protection Agency approval of the revision to the State Implementation Plan, changes the annual start date clean burning gasoline is required to be used in Area C from June 1, to May 1, beginning in 2009.

navigable stream adjudication commission; continuation (S.B. 1120) – Chapter 42

Retroactive to July 1, 2008, the Arizona Navigable Stream Adjudication Commission is continued until July 1, 2012.

continuation; veterinary medical examining board (S.B. 1158) – Chapter 26

Retroactive to July 1, 2008, the Arizona Veterinary Medical Examining Board is continued until July 1, 2018.

funeral escort vehicles (NOW: user fee; off-highway vehicles) (S.B. 1167) – Chapter 294

Beginning January 1, 2009, requires an off-highway indicia for all terrain vehicles (ATVs) and off-highway vehicles (OHVs) that weigh 1800 pounds or less and are designed and manufactured for travel on unimproved terrain. Thirty percent of fees collected from the sale of the indicia are deposited in the Highway User Revenue Fund (HURF) and the remaining 70 percent is deposited in the Off-highway Vehicle Recreation Fund (OHVRF). The monies in the OHVRF are redistributed as follows: 1) 35 percent (increased from 30 percent) is distributed to the Arizona Game and Fish Department; 2) 60 percent (decreased from 70 percent) to the Arizona State Parks Board (SPB); and 3) 5 percent (new distribution) to the State Land Department. Each agency that receives money from the OHVRF is required to submit a report to the Legislature outlining how the funds are used.

Establishes a vehicle license tax of \$3 for all ATVs and OHVs, modifies registration requirements, and requires every OHV to obtain a license plate and title. The Director of the Arizona Department of Transportation is required to systematically replace all license plates issued prior to January 1, 2009.

Establishes equipment requirements and operating restrictions for OHVs and ATVs, including prohibitions from operating off existing roads in a manner that causes damage to wildlife, over unimproved roads, on roads that are not open to the public or in a manner that damages the environment. Outlines the penalties for violating those restrictions. Any person under the age of 18 must wear protective headwear when operating and ATV or OHV on public or state land.

Exempts ATVs and OHVs used for agricultural or ranching purposes from equipment requirements and certain operation regulations.

## NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)

Requires the SPB to update the Off-highway Vehicle Recreation Plan every five years rather than six, and modifies requirements for Game and Fish training programs.

### department of agriculture omnibus act (S.B. 1168) – Chapter 161

Makes numerous changes to the Arizona Department of Agriculture (Department) statutes. The major provisions include:

***Commercial Fertilizer Inspection Fees*** – Authorizes fees collected for commercial fertilizer inspections to be used for grants for conducting research and education projects and to advance the environmental and agronomical use and handling of fertilizer material. These grants are exempt from state competitive grant requirements.

***Animal Services Division*** – Allows, rather than requires, an opportunity for a hearing with the Arizona Office of Administrative Hearings before any license issued by the Animal Services Division may be revoked or suspended and makes several changes to the procedure for holding and conducting hearings on the ownership of seized livestock. Explicitly authorizes the Department to recover costs of keeping and caring for the animal while it is under the control of the Department. Modifies the filing, summons and sale requirements related to seizure of an animal. Requires a person who finds stray livestock to either attempt to find the owner or notify the Department of the stray animal. Also requires the Department to hold stray livestock for 7 days instead of 14 days, before selling the livestock, except that the animal must be held for 14 days at the request of any person or organization.

### state land department; sunset continuation (S.B. 1180) – Chapter 81

Retroactive to July 1, 2008, the Arizona State Land Department is continued until July 1, 2018.

### Arizona beef council; sunset continuation (S.B. 1181) – Chapter 126

Retroactive to July 1, 2008, the Arizona Beef Council is continued until July 1, 2018.

### private historic cemeteries; historic preservation (S.B. 1189) – Chapter 83

Requires the State Historic Preservation Officer (SHPO) to survey, maintain an inventory of and provide preservation information pertaining to private burial sites and historic private cemeteries. Requires SHPO to make recommendations on the certification, classification and eligibility of private burial sites and historic private cemeteries for property tax and investment tax incentives. Exempts historic private burial sites and historic private cemeteries from property tax assessments. Enables SHPO to assist and advise property owners on tax exemptions for and to make records available in order to assist in locating the families of persons buried in private burial sites or historic private cemeteries.

### ~~adjudication monitoring committee; repeal~~ (NOW: outdoor fires; counties) (S.B. 1238) – Chapter 275 W/O

Removes authority for a county to adopt ordinances prohibiting open fires in private property islands within the boundaries of a national forest or U.S. Bureau of Land Management or state land holdings if a prohibition has been declared for the surrounding land. Instead, a county is authorized



## **NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)**

to adopt an ordinance prohibiting open fires and campfires in designated unincorporated areas when the county emergency management officer issues a determination of emergency and the county board of supervisors deems it necessary to protect public health and safety.

local stormwater quality programs (NOW: local stormwater pollution prevention) (S.B. 1288) – Chapter 192

Authorizes counties to adopt ordinances to develop, implement and enforce a stormwater pollution prevention plan and stormwater management program as required by the Clean Water Act (CWA), as long as the ordinance does not conflict and is not more stringent than the CWA. A county is authorized to establish a permit and inspection program, designate an administrative director for the plan or program and charge fees for the use of lands or rights-of-way and for the discharge of water across those lands. However, a county may not require a person to have a permit if that person is already being regulated for the same activity at the same location by a state or federal pollution discharge elimination system permit. Fees collected for a permit must be deposited with the county and must be used to administer the program. The county may enforce the ordinance in the same manner that the Arizona Department of Environmental Quality enforces the statewide program, with certain exceptions.

flood protection districts; financing (S.B. 1289) – Chapter 85

Establishes an additional financing option for a flood protection district and outlines the mechanism for a flood protection district to make an assessment on the district for the construction, reconstruction, replacement, renovation or repair of a flood protection facility, which is defined.

A petition signed by owners, who are in favor of the proposed project, of more than 50 percent of the acreage that will be subject to the assessment is required before the district can adopt a resolution of intention. Outlines the process for the flood protection district to adopt a resolution of intention to construct a flood protection district. Once adopted, notice must be provided to any person owning a lot, acre or parcel in the district of the intention to levy an assessment. Any person who may be assessed may object to the assessment and the district board must have a hearing on all objections. In addition, any land found not to benefit from the improvement must be removed from the assessment.

If there are no objections or if all objections have been addressed, the district is authorized to order construction of the facility. Outlines the process for hearing and awarding contracts for construction either through sealed bids or through the Arizona state procurement process. The contractor awarded the project is required to sign a contract and file a surety bond with the district.

Requires the board, upon execution of the contract, to estimate the benefits expected to arise as a result of the work and then make an assessment on the lots, acres or parcels of the district in proportion to the benefits to be received in a total amount adequate to cover the costs.

When the estimate is complete, the people owning the lots, acres or parcels assessed must either pay the full amount within 30 days, or the board may issue improvement bonds to cover the remaining unpaid assessments of the flood protection facility. The bonds must be noted in the resolution of intention, which must also specify the maximum rate of interest for the bonds. The bonds must mature within a maximum of 40 years and be paid off in annual installments. The installments are collectible in the same manner as state and county ad valorem taxes. The summary sale of delinquent properties is authorized.

## **NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)**

Makes other changes related to a person's right to object to the flood protection district procurement authority, contractor bond requirements and the district's general fund.

### exempt wells; internal reference corrections (S.B. 1326) – Chapter 71

Corrects internal statutory references regarding exempt wells.

### state forester; wildfire suppression funding (S.B. 1338) – Chapter 129

Authorizes the State Forester to incur liabilities totaling \$3 million from the state General Fund for the purposes of fire suppression and equipment pre-positioning, by combining the current authority to incur \$2 million and \$1 million, respectively, on these activities separately.

### poultry husbandry (S.B. 1373) – Chapter 32

Requires the Arizona Department of Agriculture (Department) to adopt rules for poultry husbandry and for the production of eggs sold in Arizona. These regulations apply to egg producers operating or controlling the operation of one or more egg ranches each having 20,000 or more egg-laying hens producing eggs. Provides that the regulation of poultry husbandry is not subject to further regulation by a county, city, town or other political subdivision of the state. The Department is authorized to prescribe minimum standards by rule for egg processing plants and sanitary standards for the processing of shell eggs.

### drought emergency groundwater transfers (S.B. 1380) – Chapter 88

Retroactive to April 30, 2008, in areas outside of active management areas, under specified circumstances, allows groundwater to be transferred away from a groundwater basin on application to and approval by the Director of the Arizona Department of Water Resources (Director). Requires the Director to approve an application to transport groundwater away from a groundwater basin if certain conditions are met. Repeals the transfer of groundwater authority after April 30, 2009.

### Arizona emissions bank (S.B. 1384) – Chapter 130

Continues the Arizona Emissions Bank program until July 1, 2019.

### racing; commission; department; continuation (S.B. 1394) – Chapter 73

Retroactive to July 1, 2008, the Arizona Racing Commission and Department of Racing is continued until July 1, 2016. Establishes the Racing Investigation Fund (Fund) in the Arizona Department of Administration (ADOA) consisting of monies collected from racing permittees in an amount to cover the projected cost of investigations. Monies in the Fund are continuously appropriated and must be distributed as instructed by the Director of the Department of Racing for authorized expenses.

### ~~mine inspector; surplus property~~ (NOW: mine inspector; abandoned mines; donations) (S.B. 1438) – Chapter 89

Authorizes the State Mine Inspector (Inspector) to accept in-kind donations of material, equipment or services for the purpose of eliminating public safety hazards regarding abandoned

## **NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)**

mines and allows inert material to be used as fill material for abandoned mines. Exempts a person or entity that makes a donation from liability for damages in any civil action for injury or death related to that donation. The Inspector may recover costs in a civil action brought by the Attorney General for enforcing abandoned mine requirements. Repeals the authority for the Inspector to donate used mine equipment.

### county buildings; sale; nonprofit entities (H.B. 2219) – Chapter 266

Notwithstanding any other law, authorizes counties with a population of 100,000 persons or less to sell any real or personal property that is currently being leased by the county to a nonprofit entity without appraisal or public auction and at a price to be determined by the county board of supervisors. The sale must occur within 12 months of the enactment of this legislation.

### game and fish omnibus (H.B. 2251) – Chapter 37

Effective January 1, 2009, makes numerous changes to regulations regarding game and fish licenses, stamps, tags and policies and creates an apprentice license. For an apprentice license, a mentor must be at least 18 and possess a valid hunting license. A mentor is authorized to apply for an apprentice hunting license up to two times each calendar year, and the animals that an apprentice is authorized to hunt are outlined. Additionally, Game and Fish Commission authority to revoke guide licenses is modified to allow revocation or suspension based on the number of violations.

### ~~business personal property valuation; depreciation~~ (NOW: water supply; disclosure) (H.B. 2270) – Chapter 216

Beginning January 1, 2009, requires the Department of Real Estate to: 1) post information on its website advising prospective buyers to investigate water supplies before purchasing a property; and 2) include a link to the Arizona Department of Water Resources (ADWR) website, which is required to have the definitions of subdivision water supply terms posted.

In addition, a city, town or private water company located outside of an active management area is required to provide a written statement describing the water supply status of property within its service area within three business days of a request by any person. The water supply status description must be based on the most recent determination of the Director of ADWR for the city, town or private water company, including the appropriate water supply definition.

### emissions testing; motorcycles; area A (H.B. 2280) – Chapter 64

Conditioned on the U.S. Environmental Protection Agency (U.S. EPA) approval of the change to the State Implementation Plan (SIP) by July 1, 2010, exempts motorcycles in Area A from having to take and pass an emissions test. The Director of the Arizona Department of Environmental Quality must notify the Director of the Arizona Legislative Council in writing when the U.S. EPA approves the change in the SIP.

### falconry; captive bred exotic raptors (H.B. 2332) – Chapter 217

Authorizes a person to possess, transport and use for falconry birds not listed in the Migratory Bird Treaty Act without a sport falconry license if the person has qualified to become a Class II, General or Class III, Master Falconer.

## NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)

### sale of beef by producer (H.B. 2334) – Chapter 102

Adds beef and beef, pork, poultry, egg, milk, lamb and sheep products to the definition of “food product” for the purposes of farmers’ markets.

### flood control districts; property (H.B. 2420) – Chapter 107

Adds the state or a county to the list of entities to which flood control districts (districts) may sell property without a public auction. Requires a district to obtain an appraisal of the fair market value of the property by a certified appraiser before selling the property to the state or a political subdivision, including a county. Also includes property sold by the district to the state to the requirement that if the property is subsequently sold to the state or a county as undeveloped property for a price greater than the original sale price, the district will be paid the difference between the original price and the subsequent sale price.

### underground storage tanks; energy act (H.B. 2425) – Chapter 218

Enacts multiple changes. Major provisions include:

***Underground Storage Tanks (UST)*** – Makes changes to the UST requirements as required by the Energy Policy Act of 2005, beginning January 1, 2009, including requirements for notification, secondary containment and release detection and piping component and motor fuel dispensers installation.

***Stop Use Tags*** – Authorizes the Director of the Arizona Department of Environmental Quality (ADEQ) to issue stop use orders if a UST violates performance standards or release and recordkeeping requirements and continued operation may result in continued release or new release from the UST. Requires the Director to affix a visible stop use tag on a UST that is issued a stop use order and establishes various procedural requirements and prohibitions relating to USTs with stop use tags. The Director must notify product deliverers of a stop use notice by posting the notice on the ADEQ website and remove a notice within five business days of determining that the UST is in compliance.

***Certificate Qualifications*** – Requires, beginning August 9, 2012, a UST owner or operator to designate the following individuals: 1) a class A individual, who has primary management responsibilities or decision-making authorities; 2) a class B individual, who has daily operation, maintenance and recordkeeping responsibilities; and 3) a class C individual, who has initial emergency response responsibilities. Establishes training requirements for class A, class B and class C individuals.

### waste tire collection sites (H.B. 2426) – Chapter 45

Requires waste tire sites with at least 500 waste tires stored for more than 12 months to obtain approval of a solid waste facility plan from the Arizona Department of Environmental Quality (ADEQ), unless the site is owned by a municipality or county. Waste tire sites not required to obtain a solid waste facility plan are required to comply with self-certification procedures. In addition, a site containing 100 or more used motor vehicle tires must register the waste tire site on a form approved by ADEQ that specifies the location of the site, the owner of the property, the owner or operator of the business storing the waste tires and, if applicable, the type and approximate quantity of waste tires.

## **NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)**

### unlawful public sale of animals (H.B. 2485) – Chapter 305

In counties with a population greater than 800,000, prohibits knowingly selling an animal on any public highway, street, park or adjacent public property, or on commercial private property without express consent of the owner. A person found responsible for unlawfully selling an animal is subject to a civil penalty of not more than \$50. Exceptions to this prohibition are outlined.

### oil and gas; shut-in royalty. (H.B. 2511) – Chapter 239

Outlines the process for asserting shut-in status for an oil and gas lease issued by the State Land Department (Department). Shut-in status means that an owner of an oil and gas lease is unable to produce in paying quantities because of a lack of transportation, processing facilities or a market. The process for asserting shut-in status is established, which requires completion of the well according to industry standards and a well completion report to be filed with the Oil and Gas Conservation Commission. A copy of the well completion report must also be submitted to the Department with a calculation showing that, if transportation facilities were present and a market existed, either the monthly proceeds of the well would be expected to exceed the monthly operating expenses or an alternate test demonstrating an ability to produce in paying quantities. The timeline for the Department to deny shut-in status is outlined.

In addition, outlines the mechanism for determining an “arm’s length price” for royalties on oil and gas leases on state trust land, and specifies alternatives for determining the royalties if an “arm’s length price” is not available. An “arm’s length price” is defined as a price negotiated between a willing buyer and a willing seller. Modifies the process for issuing a lease on state trust land in the case that two competitive bids are submitted simultaneously.

### agricultural improvement districts; amendments (H.B. 2524) – Chapter 137

Conditioned on the approval of amendments to the Salt River Water Users’ Association articles of incorporation by January 1, 2009, makes changes to voting and election requirements for an agricultural improvement district (district).

A person with a revocable trust is allowed to be nominated and run for the board of directors, district council, and president and vice president of the district. An alternative election process is outlined that eliminates on-site voting locations, except for early voting, and allows for mail-in ballots. In addition, the timeframe for nominating candidates for the board of directors and the council is modified to require nominations to be submitted 60 days before the election rather than 20, and the timeframe for being considered a property is changed to 100 days before an election from 60 days. The determination of the results of an election is modified to be based on the highest number of votes cast rather than a majority of votes and the requirement to have a warrant. Repeals the imprest fund requirements.

### biofuel standards (NOW: standards; biofuel) (H.B. 2621) – Chapter 254

Removes specific reporting requirements for biodiesel and requires diesel fuel dispensers that contain up to five percent biodiesel, to be labeled with the statement “may contain up to 5% biodiesel.” Requires product transfer documents to include the percentage of biodiesel in the final product. The Director of the Department of Weights and Measures is required to adopt rules to establish and enforce national or federal standards, test methods, registration and reporting requirements, and labeling requirements for biofuels and biofuel blends and quality assurance and

## **NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)**

control programs and equipment standards for biofuel producers, blenders and suppliers. Additionally, exempts from liability for injuries or property damage that result from a consumer misfueling if the supplier or retail seller is in compliance with regulations.

Establishes the Biofuels Conversion Program and the Biofuels Conversion Program Fund under the Arizona Department of Commerce.

This program expires on July 1, 2013

### interstate water transfers (H.B. 2771) – Chapter 153

Outlines the factors the Director of the Arizona Department of Water Resources may consider when establishing a fee for an application to transport water from Arizona for use in another state.

### ~~groundwater transfers; drought emergency~~ (NOW: Coconino plateau groundwater basin; withdrawal) (H.B. 2772) – Chapter 224

Exempts from the current prohibition on transporting groundwater away from a groundwater basin, and authorizes the continuation and expansion of water transportation of up to 700 acre-feet per year from an adjacent groundwater basin by a city or town in the Coconino Plateau Groundwater Basin with a population of less than 8,000 persons. Requires the Director of the Arizona Department of Water Resources (Director) to validate that the water transportation has been occurring as of January 1, 2001, and was drilled erroneously without knowledge of its adjacent groundwater basin origination. Establishes that the groundwater may only be withdrawn from wells located two miles or less from the Coconino Plateau Groundwater Basin boundary that are drilled to at least 2,500 feet below the surface. Requires the groundwater to be used within the service area of the municipality using available surface water supplies when practicable.

Authorizes the Director to increase the amount of water allowed to be transported if a city or town applies for the purposes of fire protection in an emergency. Requires a municipality to cease groundwater transportation from an adjacent groundwater basin if: 1) the municipality obtains the legal right to a new water supply, other than groundwater, located outside of its corporate boundaries; 2) the new supply of water is physically available through a canal or pipeline; and 3) the Director has determined that the supply of water, including other water supplies, is sufficient to provide a sustainable water supply for the municipality.

### pest control; department of agriculture (H.B. 2822) – Chapter 309 E

Effective July 7, 2008, eliminates the Structural Pest Control Commission (SPCC) and replaces it with the Office of Pest Management (OPM). The Director of the Arizona Department of Administration (ADOA) is responsible for appointing the OPM Acting Director subject to specified parameters.

Transfers SPCC statutes relating to the regulation of pest management to the OPM; duplicative provisions and provisions that do not apply to the OPM are removed. Further, financial security requirements are modified, the OPM is authorized to refer formal hearings to the Office of Administrative Hearings (OAH) and utility employees and employees of political subdivisions are exempted from licensing requirements.

## NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)

Stipulates that the SPCC rules remain in effect until superseded by the OPM, and any licenses, contracts or other matters issued by the SPCC remain in effect as well. SPCC equipment and personnel are transferred to the OPM, including unexpended and unencumbered money. Stipulates that the OPM will continue to occupy the location currently occupied by the SPCC.

Establishes the Pest Management Advisory Committee to generally advise the OPM Acting Director and outlines membership and appointment requirements.

Requires the Office of the Auditor General to conduct a performance review of the OPM and make a report to the Legislature and Governor by November 12, 2010, that includes recommendations for the regulation of the pest management industry to best protect the public and on the reorganization and oversight of the OPM.

### **LEGISLATION VETOED**

~~mineral inventory; technical correction~~ (NOW: public rights-of-way; claims) (S.B. 1264) – VETOED

Asserts and claims, on behalf of the state and its political subdivisions, rights-of-way across public lands acquired under the Mining Act of 1866, reenacted and recodified as Revised Statute 2477 (R.S. 2477). Outlines lands that qualify as R.S. 2477 rights-of-way. The parameters and rights of R.S. 2477 rights-of-way are outlined. Stipulates that the state does not waive, abandon or exchange any rights-of-way under R.S. 2477 unless by a formal written action. Any action taken out of compliance with that provision is void. Additionally, states that failure to maintain an R.S. 2477 right-of-way, or include it on a map of public roads, does not affect its status as a highway.

In her veto message, the Governor states that much of the land that would be affected by this legislation has changed ownership and adjudicating all of those rights-of-way would create unnecessary uncertainty. In addition, the letter states that the veto of this legislation does not preclude the future assertion of claims to R.S. 2477 rights-of-way on a case-by-case basis.

~~joint underwriting and reinsurance organizations~~ (NOW: greenhouse emissions; regulations; fuel economy) (H.B. 2017) – VETOED

Prohibits statutory agencies of the state from adopting or enforcing regulations to implement a state or regional program to regulate greenhouse gas emissions or motor vehicle fuel economy without express legislative authorization. Defines greenhouse gas.

The Director of the Arizona Department of Environmental Quality (ADEQ) is required to provide a written report to the Governor, Legislature and Arizona Corporation Commission on each proposed program to address greenhouse gas emissions or motor vehicle fuel economy or any cap and trade program recommended by the Western Climate Initiative (WCI).

Contains a legislative intent clause.

The Governor states in her veto message that ADEQ has a statutory responsibility for establishing standards for car emissions and followed the process required by law when establishing the Clean Car Rules. Further, adjustments to the Clean Car Rules are better dealt with administratively. The Governor also stated that the WCI recommendations are not requirements and that it would be premature to require legislative approval for all programs related to greenhouse gases.

# **Public Safety & Human Services Committee**

**Senator Linda Gray, Chairman**



**Amber O'Dell, Research Analyst**  
**Jessica Ripplinger, Assistant Analyst**  
**Brooke Olguin, Intern**



# **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE**

## **LEGISLATION ENACTED**

~~adoption; safe haven infants; grandparents~~ (NOW: safe haven providers; notices) (S.B. 1049) – Chapter 22

Requires fire stations, hospitals and outpatient treatment centers to post exterior notices that they accept newborn infants in a location that is noticeable to the public. Prescribes requirements for the notices. Exempts fire stations, hospitals and outpatient treatment centers from civil liability if they do not post the required notice.

~~integrated family court; court orders~~ (NOW: CPS services; court order) (S.B. 1100) – Chapter 78

Allows the court, when determining custody and parenting time, to request or order the Division of Children and Family Services in the Department of Economic Security to provide services if the court believes that a child may be the victim of child abuse or neglect.

~~divorce; disposition of property~~ (S.B. 1112) – Chapter 124

Allows the court to consider all debts and obligations related to the property when dividing community property, as well as the status of homesteads and certain personal property exempt from process for the collection of debts. Requires the court to make specific findings of fact in its decree if the division of community property is child support or spousal maintenance. Specifies that service of a petition for dissolution of marriage, legal separation or annulment does not change community property or alter the duties and rights of either spouse with respect to the management of community property.

~~AHCCCS; DES; new hires directory~~ (S.B. 1133) – Chapter 79

SEE COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE.

~~extended school year; technical correction~~ (NOW: developmental disability providers) (S.B. 1219) – Chapter 190

Requires the Division of Developmental Disabilities (DDD) within the Department of Economic Security (DES) to disclose to service providers historical and behavioral information in all meetings in response to a vendor call and provides examples of historical and behavioral information. Authorizes service providers to do the following in accordance with a client's individual program plan: 1) administer medications, including assisting with the client's self-administration of medications; 2) log, store, remove and dispose of medications; and 3) maintain medications and protocols for direct care. Allows DES to adopt rules establishing procedures regarding medications. Requires a provider to notify DDD within 24 hours if an emergency situation exists in which the provider is unable to meet the health or safety needs of a client. Requires DES, on notification of an emergency situation, to hold an individual program plan meeting within 15 days after notification to recommend any changes, including whether there is a need for temporary additional staffing to provide appropriate care for a client, and develop a plan within 30 days after notification to resolve the situation. Requires the independent consulting firm to include, in its recommendation for annual

## **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)**

inflationary cost, costs arising from amendments to existing contracts unless modified in response to federal or state law.

### ACJC; cold case investigation protocol (S.B. 1274) – Chapter 69

Requires the Arizona Criminal Justice Commission to compile information on best practices for conducting cold case investigations.

### adult adoption (S.B. 1282) – Chapter 162

Allows an adult to adopt a person who is at least 18 but not older than 21 years of age and who consents to the adoption.

### law enforcement; probation; officers; investigations (S.B. 1339) – Chapter 193

Modifies requirements regarding law enforcement or probation officer misconduct interviews and appeals of disciplinary actions. Allows an employer, in an interview the employer reasonably believes could result in dismissal, demotion or suspension, to require a law enforcement or probation officer to submit to a polygraph examination under specified circumstances. Prescribes requirements for the polygraph administrator. Requires the first request for a change of hearing officer to be granted if the employer is a county over 250,000 persons or a city over 65,000 persons. Requires the employer to bear the burden of proof in an appeal of a disciplinary action by an officer. Applies the requirements for law enforcement or probation officer appeals hearings to disciplinary actions that may result in dismissal, demotion or suspension for more than 24 hours.

### child dependency cases; performance standards (S.B. 1440) – Chapter 197

Requires the Administrative Office of the Courts (AOC) to develop judicial performance standards, by December 31, 2008, for courts that handle child dependency cases and perform a review of the implementation and impact of the performance standards on the judicial management of child dependency cases. Requires AOC to submit a report of its findings and recommendations, by February 1, 2010, to the Governor and the Legislature. Repeals the provisions on October 1, 2011.

### foster care; expedited permanency (S.B. 1441) – Chapter 198

Expedites permanency for children under the age of three who have been removed from their homes. Specifically, stipulates that evidence to justify the termination of parental rights includes the fact that a child under the age of three has been in out-of-home placement for a cumulative period of six months or longer pursuant to a court order and that the parent has substantially neglected or willfully refused to remedy the circumstances that cause the child to be in out-of-home placement. Requires the court to do the following within six months after a child who is under three years of age is removed from the home: 1) hold a permanency hearing to determine the future permanent legal status of the child; 2) determine whether reasonable efforts have been made to provide reunification services to the parent; and 3) determine whether the parent has substantially neglected or willfully refused to participate in those services. The Department of Economic Security must make reasonable efforts to place the child in a timely manner in accordance with the permanency plan and complete whatever steps are necessary to finalize the permanent placement of the child. Requires the court to hold a hearing on an adoption petition within 90 days if the child is under three years of age, rather than if the child is under six months of age.

## **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)**

### dependent children; placement; hearings (S.B. 1442) – Chapter 199

Requires the court, at a preliminary protective hearing, to inform certain people of the right to be heard in any proceeding to be held with respect to the child if the Department of Economic Security has placed the child with that person or if the person is a possible placement for the child and the child is not returned to the parent or guardian.

### probation; facilities; safe communities act (S.B. 1476) – Chapter 298

Requires the Legislature, beginning in FY 2010-2011, to annually appropriate 40 percent of any cost savings related to a reduction in probation revocations for distribution and deposit in the Adult Probation Services Fund of each county, if there is a reduction in the percentage of supervised probationers who are convicted of a new felony offense. Provides guidelines for the use of the monies. Allows the court, effective January 1, 2009, to adjust the period of a defendant's supervised probation for earned time credit, which equals 20 days for every 30 days that a defendant exhibits positive progression toward goals and treatment of the defendant's case plan, is current on payments for court-ordered restitution and other obligations and is current on completing community restitution. Revokes any earned time credit of a probationer who is found in violation of a condition of probation, and specifies that earned time credits do not apply to certain probationers. Requires the Auditor General to complete a performance audit by July 1, 2014.

### Vietnam Veterans' Memorial Day (NOW: marriage; one man; one woman) (S.C.R. 1042)

Subject to voter approval at the next general election, constitutionally specifies that only a union of one man and one woman is valid or recognized as marriage in Arizona.

### interstate compact; annual assessment (H.B. 2109) – Chapter 251

Eliminates the \$25,500 cap for Arizona's annual assessment as a member state of the Interstate Compact for the Supervision of Adult Offenders and removes the requirement that an assessment over \$25,500 be appropriated by the Legislature.

### DES; notice; documents; electronic service (H.B. 2204) – Chapter 98

Allows hearing officers, appeal tribunals and the Appeals Board within the Department of Economic Security to serve notices, decisions, orders and other documents by electronic means under certain circumstances. Permits a person to electronically file an affidavit for change of appeal tribunal, a petition for review and a request to reopen a hearing.

### unemployment insurance; liability; liens; service (H.B. 2206) – Chapter 36

SEE COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE.

### fingerprinting board; good cause exceptions (H.B. 2254) – Chapter 173

Requires the members and employees of the Arizona Board of Fingerprinting (Board) to have valid fingerprint clearance cards. Requires a majority plus an additional member of the Board members present to vote to approve a good cause exception application, rather than requiring unanimous decisions and requires the Board's hearing officers to make recommendations, instead of determining, whether to grant or deny good cause exceptions. Allows the Board to require good

## **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)**

cause exception applicants to disclose evidence regarding substantiated allegations of abuse or neglect for consideration in determining the applicant's successful rehabilitation. Continues the Board until July 1, 2013.

### child support; arrearages (H.B. 2276) – Chapter 63

Stipulates the timeframe for accrual of interest on past child support. For past child support reduced to a final written money judgment before the bill's effective date, interest accrues annually on principal only at a rate of ten percent beginning on entry of the judgment by the court. For past support reduced to a final written money judgment on or after the effective date of the bill, interest does not accrue for any time period. Allows the affidavit of direct payment or waiver of support arrearage to be signed by the person entitled to receive the support, rather than by both the person entitled to receive the support and the person ordered to make payment.

### child support; presumptions (H.B. 2277) – Chapter 101

Requires the court, in a proceeding to establish child support and in the absence of contrary testimony, to presume that both parents are capable of full-time employment at least at the applicable state or federal adult minimum wage, whichever is higher.

### DHS; licensing; electronic licensing (H.B. 2366) – Chapter 66 E

Effective April 22, 2008, modifies the requirements for the renewal of certificates of child care group homes and licenses for health care institutions and child care facilities. The bill removes the requirement that the Department of Health Services (DHS) conduct an inspection before issuing a renewal license for a health care institution. Instead, DHS must issue a renewal license on receipt of a valid application and conduct an inspection during the license period, with certain exceptions. Requires DHS to issue a renewal license to a child care facility or a renewal certificate to a child care group home on receipt of a valid application without inspecting the facility or home. Removes certain application requirements for renewal licenses and certificates, and instead only applies the requirements to initial licenses or certificates. Allows DHS to accept electronic licensure and certification applications.

### department of economic security; continuation (H.B. 2390) – Chapter 104

Retroactive to July 1, 2008, the Department of Economic Security is continued until July 1, 2018.

### procurement; government set aside program (H.B. 2439) – Chapter 148

Makes permanent the Arizona Set Aside Program, which requires all state governmental units to endeavor to set aside at least one percent of their new purchases or contracts for products, materials and services from Arizona Industries for the Blind, Arizona Correctional Industries or certified nonprofit agencies.

### constables; ethics; training. (H.B. 2443) – Chapter 109

Increases, from 8 hours to 16 hours, the amount of additional annual training a constable is required to attend.

## **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)**

### children; open court proceedings (H.B. 2453) – Chapter 278

Opens court proceedings relating to dependent children, permanent guardianships and termination of parental rights, except in certain circumstances. Allows the court to order any proceeding closed to the public for good cause shown and provides the following guidelines to the court in making that decision: whether doing so is in the child's best interests, whether an open proceeding would endanger the child's physical or emotional well-being or the safety of any other person, the privacy rights of the persons involved, whether all parties have agreed to allow the proceedings to be open and the wishes of a child who is at least 12 years old and is a party to the proceeding. Allows the court to find a person who discloses identifying information in contempt of court and to close an open proceeding at any time for good cause shown or open a closed proceeding on request.

### ~~CPS information; public records~~ (NOW: public records; CPS information) (H.B. 2454) – Chapter 279

Requires the Department of Economic Security (DES) to promptly provide preliminary information to the public of a Child Protective Services (CPS) case of child abuse, abandonment or neglect that resulted in a fatality or near fatality, including the identity of the child and alleged perpetrator and information on past reports and actions taken by CPS. Requires DES, on request by any person, to promptly provide additional CPS information to the person, but requires DES to notify the county attorney of any decision to release the information. Requires the county attorney to inform DES if the county attorney believes the release would cause a specific material harm to a criminal investigation. If a person believes that the county attorney has failed to demonstrate that release would cause a specific, material harm to a criminal investigation, the person may file an action in superior court to request the court to review the information and order disclosure.

Requires DES, on request, to continue to provide CPS information promptly to the public about a fatality or near fatality unless: 1) after further consultation with the county attorney, the county attorney demonstrates that release of particular CPS information would cause a specific, material harm to a criminal investigation; or 2) the release would violate federal law, the privacy of victims of crime or state statute regarding the protection of the identity or safety of a person who reports child abuse or neglect or the protection of any other person. Allows a person denied CPS information regarding a fatality or near fatality to bring a special action in superior court to order DES to release the information and requires the court to review the requested records, order disclosure and take reasonable steps to prevent any unwarranted invasions of privacy and to protect the privacy and dignity of victims of crime.

Allows DES or a person who is not specifically authorized by statute to obtain CPS information to petition a judge of the superior court to order DES to release the information. Requires the court to review the requested records and to balance the rights of the parties who are entitled to confidentiality against the rights of the parties seeking CPS information and any benefits from releasing the CPS information. Expands the list of those to whom DES or a person who receives CPS information must provide information, to include a law enforcement agency, a prosecutor, an attorney or a guardian ad litem representing a child victim of crime.

## **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)**

~~CPS; criminal investigations~~ (NOW: child protective services; records; duties) (H.B. 2455) – Chapter 280)

Contains provisions established by Laws 2008, Chapter 279, that require the Department of Economic Security (DES) to provide information to the public of a Child Protective Services (CPS) case of child abuse, abandonment or neglect that resulted in a fatality or near fatality. Stipulates that files, records, reports and other papers compiled in accordance with the termination of a parent-child relationship are subject to disclosure, rather than being withheld from public inspection. Requires DES to establish and implement protocols that DES is currently required to develop in consultation with the Attorney General, domestic violence victim advocates and mandatory reporters. In addition to the current requirement to develop and implement protocols to guide the conduct of investigations of criminal conduct, requires each county attorney, in cooperation with the sheriff, chief law enforcement officer for each municipality in the county and DES to adopt the protocols to ensure thorough investigations of those accused of crimes against children. Requires the protocols to include standards for the timely disclosure of information. Requires CPS and each county attorney to independently report the following each year: 1) the number of criminal conduct allegations investigated and how many of the investigations were conducted jointly pursuant to the investigation protocols; 2) information from each county attorney regarding the number of cases presented for review, the number of persons charged in those cases, the reasons why charges were not pursued and the disposition of the cases; and 3) the reasons why a joint investigation did not take place. Requires DES to protect the victims' rights of the children in its custody against harassment, intimidation and abuse in instances of criminal conduct against a child.

~~child support; health insurance~~ (NOW: child support; medical insurance) (H.B. 2505) – Chapter 181

Requires each parent to provide information to the court regarding the availability of medical insurance for the child that is accessible and available at a reasonable cost during proceedings to establish child support. If the court finds that neither parent has the ability to obtain medical insurance for the child that is accessible and available at a reasonable cost, the court must establish a reasonable monthly cash medical support order to be paid by the obligor. Specifies that if medical assistance is being provided by the Arizona Health Care Cost Containment System, cash medical support is assigned to the state. The court must order that medical costs in excess of the cash medical support amount be shared by both parents. Requires the Director of the Department of Insurance to annually make available to the public a list of authorized insurers transacting insurance in Arizona and offering individual health insurance plans. Allows the Director of the Department of Economic Security to disseminate the insurance information and to enter into agreements with a consortium of other states to offer medical insurance coverage to children in child support enforcement cases.

airports; designated security areas; weapons (H.B. 2574) – Chapter 116

Establishes the offense of misconduct involving weapons in a secured area of an airport as a class 1 misdemeanor. The offense includes intentionally carrying, possessing or exercising control over a deadly weapon in a secured area of an airport. Exempts certain officers, military members and individuals authorized by federal agencies from the classification.

CPS; court orders (H.B. 2594) – Chapter 182

Requires Child Protective Services to make a good faith effort to promptly obtain and abide by court orders that restrict or deny custody, visitation or contact by a parent or other person in the

## **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)**

home with the child, including asking the parent, guardian or custodian under investigation if a current court order exists.

CPS; missing children reports (NOW: missing children; notification; procedure) (H.B. 2599) – Chapter 165

Requires Child Protective Services (CPS) to notify the appropriate law enforcement agency upon receiving a report of abuse, neglect or other information during the course of providing services that indicates the child is at risk of serious harm and the child's location is unknown. Requires CPS to provide information required to make the record entry into both the National and Arizona Crime Information Centers. Allows a peace officer or CPS worker to take a child into temporary custody because custody is clearly necessary to protect the child if the child is reported by CPS to be missing and at risk of serious harm.

foster care parents; respite care (NOW: short-term caregivers; foster children) (H.B. 2601) – Chapter 166

Requires, if a foster parent needs to leave a foster child in the care of another person, the foster parent to use reasonable judgment in the choice of an adult to provide care. Prescribes timelines, depending on the situation, in which the foster parent must notify the Department of Economic Security (DES). Requires a foster parent who is certified to provide care to a child with developmental disabilities, a medically fragile child or a child receiving treatment foster care to implement the alternate care plan approved by DES if the foster parent must leave the child in the care of another person.

criminal history records; DES (H.B. 2602) – Chapter 117

Requires the Director of the Department of Public Safety to authorize the exchange of criminal justice information with Child Protective Services. Limits the use of the information to investigating or responding to reports of child abuse, neglect or exploitation as provided in the Adam Walsh Child Protection and Safety Act of 2006.

child protective services workers (NOW: children school activities; noninterference) (H.B. 2633) – Chapter 268

Requires a child welfare agency or Child Protective Services to make every reasonable effort to not remove a child who is placed in out-of-home care from school during regular school hours for appointments, visitations or activities not related to school.

liquor; restaurant licenses; continued operation (H.B. 2643) – Chapter 256

Effective January 1, 2009, makes the following changes:

***Operating a Motorized Watercraft Under the Influence (OUI)*** – Increases penalties for persons convicted of OUI. Specifically, mandates a minimum sentence of ten days for a person convicted of first time OUI; however, the court may suspend the entire sentence or all but 24 consecutive hours of the sentence, depending on the circumstances. Makes the following changes related to second time OUI offenses: 1) the court must order 30 hours of community service; and 2) adds a restriction to the circumstances under which the court may suspend all but 30 days of the sentence. A person convicted of extreme OUI whose blood alcohol concentration is 0.20 or more

## **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)**

must serve 45 days for a first offense and 180 days for a second offense. Adds to the aggravated OUI statute committing an extreme or second offense OUI while a person under 15 years of age is aboard the watercraft or committing a first offense OUI if the person endangers the person under 15 years of age, and specifies minimum sentences. Increases the fines and assessments for OUI offenses, aligning them with the current DUI statutes, but eliminates the civil penalty of \$1,250 for refusing to submit to a blood alcohol concentration test related to OUI.

***Driving Under the Influence (DUI)*** – Eliminates a conflicting enactment by removing the ability of judges to suspend any portion of extreme DUI sentences and repealing language as necessary. Adds additional circumstances when an officer must serve an order of license suspension. Specifically, the officer must serve the order when the officer makes an arrest for homicide, endangerment or aggravated assault involving a motor vehicle and also when the results of a blood test are not available. Requires the Motor Vehicle Division to order a person whose license is suspended to complete alcohol or other drug screening as a condition of license reinstatement and establishes processes and procedures.

***Watercrafts*** – Prescribes requirements for the operator of a watercraft involved in a collision, accident or other casualty. Eliminates the class 2 misdemeanor classification for not immediately stopping a watercraft to allow a peace officer to come aboard, and instead designates as a class 5 felony willfully fleeing or attempting to elude a pursuing officer who is ordering the operator ashore to correct any unlawful condition or issuing a written warning, repair order or citation.

***Miscellaneous*** – Continues, until FY 2012-2013, the Arizona Department of Liquor License and Control's ability to approve the continuation of a restaurant license for an establishment that derives between 30 and 40 percent of its gross revenue from food sales.

### dependent children; successor permanent guardianships (H.B. 2764) – Chapter 168

Allows a permanent guardian, the Department of Economic Security (DES) or an interested party, if the appointed permanent guardian is unable or unwilling to continue to serve as permanent guardian, to file a motion for appointment of a successor permanent guardian and specifies procedures. Enumerates actions the court must take when the motion is filed, including setting a hearing date within 30 days after the motion is filed, appointing attorneys for the child and proposed successor guardian, if necessary, and entering temporary orders. Requires the court to grant the motion at the hearing and set a review hearing within one year after the appointment, if the court finds that the proposed successor permanent guardian is suitable to assume the responsibilities of permanent guardian and that appointment would be in the child's best interests, and to terminate the appointment of the current permanent guardian and enter any other orders as may be necessary for the safety and well-being of the child. Allows the court to order DES or an agency to conduct an investigation and submit a written report before the review hearing. Specifies actions the court may take if the motion to appoint a successor permanent guardian does not comply with statutory requirements or if the court does not appoint a provisional or permanent successor permanent guardian.

### guardians and conservators (H.B. 2836) – Chapter 248

Modifies compensation guidelines that are used by the court when a person files a petition for appointment of guardian or conservator. Specifically, stipulates that if the petitioner withdraws the petition, or if the petition is denied, the court may order the compensation of the guardian or conservator, an investigator, accountant, lawyer, physician, psychologist or registered nurse to be



## **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)**

paid either from the ward's or protected person's estate or by the petitioner, depending on the circumstances. Authorizes a conservator to exercise the powers and duties of a personal representative after the protected person's death, in certain circumstances. Unless prohibited by the court, in lieu of a final account after the death of the protected person, allows the conservator to do the following: 1) file a verified statement with the court that includes specified information and 2) deliver a copy of a closing statement to the protected person's successors that enumerates certain rights of the successors and that includes information related to property owned by and the death of the protected person. If the successors waive court review of the conservator's final account, the conservatorship is terminated and the conservator is discharged from all liabilities.

### **LEGISLATION VETOED**

#### **parental consent; abortion (H.B. 2263/S.B. 1102) – VETOED**

Requires a pregnant minor to prove by clear and convincing evidence that she is sufficiently mature and capable of giving informed consent without consulting her parent or legal guardian based on her experience level, perspective and judgment before the judge authorizes a physician to perform an abortion without parental consent. Outlines guidelines for judges when making the determination.

The Governor indicates in her veto message that this legislation is unnecessary to establish a clear and convincing standard of proof by which a minor must convince the judge of her maturity and capability to give consent because Arizona case law already sets forth this standard and lists factors for the judge's consideration.

#### **border officers; state laws; enforcement (H.B. 2359) – VETOED**

Authorizes sheriffs, without the authority of the board of supervisors, in matters that have no financial impact to the county, to enter into agreements with Customs and Border Protection for the primary purpose of facilitating interagency communication.

In her veto letter, the Governor indicates that this legislation only affirms existing law.

#### **~~PSPRS; investments; management~~ (NOW: driving; boating; under the influence) (H.B. 2395) – VETOED**

Effective January 1, 2009, makes the following changes:

***Operating a Motorized Watercraft Under the Influence (OUI)*** – Increases penalties for persons convicted of OUI. Specifically, mandates a minimum sentence of ten days for a person convicted of first time OUI; however, the court may suspend the entire sentence or all but 24 consecutive hours of the sentence, depending on the circumstances. Makes the following changes related to second time OUI offenses: 1) the court must order 30 hours of community service and 2) adds a restriction to the circumstances under which the court may suspend all but 30 days of the sentence. A person convicted of extreme OUI whose blood alcohol concentration is 0.20 or more must serve 45 days for a first offense and 180 days for a second offense. Adds to the aggravated OUI statute committing an extreme or second offense OUI while a person under 15 years of age is aboard the watercraft or committing a first offense OUI if the person endangers the person under 15 years of age, and specifies minimum sentences. Increases the fines and assessments for OUI offenses, aligning them with the current DUI statutes, but eliminates the civil penalty of \$1,250 for refusing to submit to a blood alcohol concentration test related to OUI.

## **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)**

***Driving Under the Influence (DUI)*** – Eliminates a conflicting enactment by removing the ability of judges to suspend any portion of extreme DUI sentences and repealing language as necessary. Adds additional circumstances when an officer must serve an order of license suspension. Specifically, the officer must serve the order when the officer makes an arrest for homicide, endangerment or aggravated assault involving a motor vehicle and also when the results of a blood test are not available. Requires the Motor Vehicle Division (MVD) to order a person whose license is suspended to complete alcohol or other drug screening as a condition of license reinstatement and establishes processes and procedures. Requires MVD to reduce the time period that a first time DUI offender must have an ignition interlock device (IID) installed on the person's vehicle from 12 to 6 months or the completion of the following requirements, whichever is later: 1) successful completion of a voluntary or court ordered alcohol or other drug education and treatment program and 2) maintenance of a functioning IID in compliance with statutory requirements for at least six months.

***Watercrafts*** – Prescribes requirements for the operator of a watercraft involved in a collision, accident or other casualty. Eliminates the class 2 misdemeanor classification for not immediately stopping a watercraft to allow a peace officer to come aboard, and instead designates as a class 5 felony willfully fleeing or attempting to elude a pursuing officer who is ordering the operator ashore to correct any unlawful condition or issuing a written warning, repair order or citation.

The Governor indicates in her veto message that this legislation reduces the length of time a person must use an IID after a DUI conviction from 12 to 6 months, but that it has been less than a year since Arizona enacted the current IID law. She also indicates that IIDs have a deterrent effect on decisions to commit DUI, and that it would be premature to change the law before the state can examine its effects.

### weapons; peace officers; posse; reserves (H.B. 2626) – VETOED

Allows the sheriff to authorize members of the sheriff's volunteer posse who have received firearms training approved by the Arizona Peace Officer Standards and Training Board (AzPOST) to carry a deadly weapon without a concealed carry weapon (CCW) permit while on duty. Excludes the following persons from misconduct involving weapons charges for carrying a concealed deadly weapon without a permit: 1) an AzPOST trained and sheriff approved member of the sheriff's volunteer posse or reserve organization; 2) an honorably retired law enforcement officer who possesses required photographic identification; and 3) a person who carries a deadly weapon in a manner where any portion of the weapon is visible. Increases, from a class 3 to a class 2 felony, the offense of misconduct involving weapons related to terrorism.

The Governor indicates in her veto message that she objects to the section of the bill that allows weapons to be carried without a CCW permit if any portion of the weapon is visible.

### immigration; local enforcement (H.B. 2807) – VETOED

Requires sheriffs and police departments to implement a program to address violations of federal immigration laws by training peace officers or detention officers, embedding Immigration and Customs Enforcement (ICE) agents within the agency or establishing operational relationships with ICE. Requires any training to be funded by any source of federal funding or by the state if federal funding is unavailable. Specifies that officials, agencies or personnel of counties, cities and towns may not be prohibited or restricted from sending, receiving or maintaining information related to the immigration status of any individual or exchanging that information with any other governmental entity for specified purposes, except as prohibited by federal law.

## **PUBLIC SAFETY & HUMAN SERVICES COMMITTEE (Cont'd.)**

In her veto message, the Governor indicates that this measure is an unfunded mandate to law enforcement and that nothing in current law prevents law enforcement from entering into agreements with federal immigration authorities to enforce federal immigration law, provided the officers are given proper training.

# **Transportation Committee**

**Senator Ron Gould, Chairman**



**Ryan DeMenna, Research Analyst**

**Perla Rojas, Intern**

# TRANSPORTATION COMMITTEE

## LEGISLATION ENACTED

gold star family license plates (NOW: special license plates) (S.B. 1083) – Chapter 257

Requires the Arizona Department of Transportation to issue the Gold Star Family special plate and the Arizona Professional Basketball Club special plate if a charitable organization affiliated with an Arizona professional basketball club donates the monies necessary to implement both plates. Establishes a subaccount in the Veteran's Donation Fund for the deposit of monies received through the sale of the Gold Star Family special plate and dedicates revenue generated through the sale of the plate for the benefit of any immediate family member of a person who died while on active duty in the United States military.

automobile theft authority; public records (S.B. 1156) – Chapter 188

Specifies that any personal or vehicle information that is voluntarily submitted to the Arizona Automobile Theft Authority (ATA) or disseminated by the ATA to another state agency as part of a program designed to reduce automobile theft is not a public record and is not subject to disclosure. Provides an exemption for information used for statistical purposes that is released in aggregate form.

salvage title; stolen vehicle title (S.B. 1165) – Chapter 258

Establishes the stolen vehicle certificate of title and allows the Arizona Department of Transportation's (ADOT) Motor Vehicle Division to issue a stolen vehicle certificate of title to vehicles that have been stolen and, in some cases, not recovered. Allows an insurance company to submit an application to ADOT for a salvage certificate of title, stolen vehicle certificate of title or nonrepairable vehicle certificate of title if the insurance company is unable to obtain a properly endorsed certificate of title or lien satisfaction, if applicable, within 30 days of oral or written acceptance by the owner of an offer in settlement of total loss.

funeral escort vehicles (NOW: user fee; off-highway vehicles) (S.B. 1167) – Chapter 294

SEE NATURAL RESOURCES AND RURAL AFFAIRS COMMITTEE.

nursing programs; jurisdiction (NOW: exemption; nursing assistant programs) (S.B. 1431) – Chapter 211

SEE HEALTH COMMITTEE.

rest area privatization; state highways (S.B. 1466) – Chapter 283

Allows the Arizona Department of Transportation (ADOT) to privatize any rest area constructed on a state highway on or after the effective date of the legislation and specifies required provisions to be included in any agreement between a person and ADOT for rest area privatization.

## **TRANSPORTATION COMMITTEE (Cont'd.)**

### ADOT continuation; five years (S.B. 1468) – Chapter 90

Retroactive to July 1, 2008, the Arizona Department of Transportation is continued until July 1, 2016.

### logo sign programs; ADOT (S.B. 1473) – Chapter 33

Allows 24-hour pharmacies to advertise on highway logo signs and allows the Arizona Department of Transportation to enter into revenue sharing agreements with a third party to install and maintain highway logo signs.

### Hashknife pony express memorial trail (S.J.R. 1001)

Recognizes certain state roadways as the route used by the Hashknife Pony Express and requires the Arizona Department of Transportation to work with the Hashknife Pony Express Posse on the design and placement of signs identifying the historic route.

### traffic survival school; maximum enrollment (H.B. 2003) – Chapter 18

Limits the enrollment in a traffic survival school training and educational session to the fire safety capacity of the facility in which the class meets.

### Arizona highways special plates (H.B. 2046) – Chapter 93

Creates the Arizona Highways special plate and requires the Arizona Department of Transportation (ADOT) to issue the In God We Trust special plate if an entity provides ADOT with the necessary monies to implement the plate.

### aviation; aircraft registration; dealer bond (H.B. 2048) – Chapter 175

Removes the requirement that the Director of the Arizona Department of Transportation contract to obtain air search and rescue services and exempts the federal government from aircraft registration requirements.

### motor carrier safety; vehicle equipment (H.B. 2088) – Chapter 142

Conforms motor carrier hours of operation and vehicle safety and equipment regulations to federal motor carrier safety regulations.

### school crossings (H.B. 2093) – Chapter 143

Specifies that the civil penalty is doubled for a traffic violation committed in a school crossing only when portable school crossing signs indicating “school in session,” “stop when children are in crosswalk” and “civil penalty will be doubled” are present. Requires the court to collect the additional assessment at the same time the court collects the civil penalty.

### highway project advancement notes (H.B. 2094) – Chapter 299

Authorizes counties, in addition to cities and towns, to sell or issue Highway Project Advancement Notes (HPANs). Extends HPANs’ terms from 5 years or less to 15 years or less and

## **TRANSPORTATION COMMITTEE (Cont'd.)**

prohibits a city, town or county from having more than \$300 million, rather than \$100 million, aggregate principal amount of HPANs outstanding at any one time. Beginning in FY 2006-2007, allows monies in the Statewide Transportation Acceleration Needs Account to be used to pay interest costs resulting from bonds, loans, notes or other obligations issued or incurred or advances made by or on behalf of a city, town or county.

### transportation districts (H.B. 2133) – Chapter 157

Requires a new transportation district (district) consisting of a single county to be formed if, after January 1, 2009, a county attains a population of 500,000 or more persons and removes the county from the district to which it belonged prior to the new district being formed. Requires the Governor to appoint a new member to the State Transportation Board for the new district.

### ~~railroad sites; review~~ (NOW: railroad projects; review) (H.B. 2156) – Chapter 284 W/O

Retroactive to January 1, 2008, requires a railroad, if a railroad has identified a route or site for a major rail project, to provide the Arizona Department of Transportation (ADOT) a full disclosure of specified information regarding the identified route or major rail project. Requires ADOT to hold public hearings pertaining to the information provided by the railroad and prohibits the railroad from commencing any eminent domain proceeding until after the public hearings and review process. Establishes the Railroad Review Fund consisting of fees collected by ADOT for reviewing information provided by the railroad. Requires the Director of ADOT to establish a Freight Advisory Council to advise ADOT regarding freight system issues, infrastructure and planning in this state.

### vehicle title; registration; electronic signatures (H.B. 2169) – Chapter 177

Continues the Electronic Certificates of Title System and requires the Director of the Arizona Department of Transportation (ADOT), in cooperation with a statewide association of franchised new motor vehicle dealers, to establish a schedule to develop a pilot program to accept and use electronic or digital signatures. Requires the Director of ADOT to adopt policies necessary to implement the pilot program. Allows the Director of ADOT to establish an electronic title system to issue valid electronic dismantle certificates of title.

### ~~military procession right-of-way~~ (NOW: right-of-way; military procession (H.B. 2249) – Chapter 99

Specifies additional requirements for funeral escort vehicles and funeral escort vehicle drivers. Grants a military procession that is led by a military escort vehicle the same right-of-way privileges as a funeral procession and allows the sheriff to certify any person as a funeral or military escort vehicle driver.

### commercial motor vehicles; trailers (H.B. 2355) – Chapter 147

Conforms the definition of a commercial motor vehicle to federal law and requires the Arizona Department of Transportation and the Department of Public Safety to develop easily understandable publications of the laws and regulations relating to commercial and noncommercial motor vehicles, trailers and vehicle combinations on the website of each agency no later than January 1, 2009.

## **TRANSPORTATION COMMITTEE (Cont'd.)**

### historic trucks; use fuel taxes (H.B. 2357) – Chapter 51

Requires a use class vehicle to pay the use fuel tax rate for a light class motor vehicle if the vehicle is a truck and is at least 25 years old, has been issued a historic vehicle license plate and is not used as a commercial vehicle.

### ~~overdimensional permit and towing council~~ (NOW: towing advisory council; repeal) (H.B. 2403) – Chapter 249

Repeals the Motor Vehicle Towing Advisory Council.

### ~~appeals; technical correction~~ (NOW: MVD; authorized third party fees) (H.B. 2445) – Chapter 253

Modifies various amounts the Arizona Department of Transportation (ADOT) must reimburse an authorized third party or third party electronic service provider for services provided to ADOT, including the maximum annual amount retained for each fuel tax report filed electronically.

### ~~defensive driving schools~~ (NOW: certified defensive driving schools; notice) (H.B. 2488) – Chapter 39

Allows an eligible individual to attend any defensive driving school that is certified by the Supreme Court and complies with court automation and reporting requirements and prohibits the court from favoring any certified defensive driving school over another.

### driver licenses; document of gift (H.B. 2671) – Chapter 250 E

Effective June 2, 2008, outlines the steps necessary to allow an organ procurement organization (OPO) to validate an executed document of gift that is transferred to the OPO from the Arizona Department of Transportation.

### REAL ID act; implementation prohibited (H.B. 2677) – Chapter 272

Prohibits Arizona from implementing the REAL ID Act.

### vehicle equipment; splash guards (H.B. 2680) – Chapter 47

Exempts pickup trucks with a manufacturer's gross vehicle weight rating of 10,000 pounds or less and certain tandem or triple axle trailers from rear fender splash guard requirements.

### vehicles; nonresident purchasers; tax liability (H.B. 2732) – Chapter 246

Retroactive to August 25, 2004, requires the Department of Revenue to prescribe forms to establish satisfaction of the criteria necessary to qualify the sale of a motor vehicle to a nonresident for the applicable deductions from Arizona's sales tax and transaction privilege tax. Outlines the information a motor vehicle dealer must retain in order to establish a person's entitlement to the deductions and specifies that if the nonresident purchaser cannot establish the accuracy and completeness of the information that the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer would have been required to pay. Specifies the information a nonresident purchaser must provide to the Arizona Department of Transportation (ADOT), an authorized third party or a dealer in order to obtain a special 90-day nonresident registration permit.



## **TRANSPORTATION COMMITTEE (Cont'd.)**

Categorizes a person who is registered to vote in this state as a resident for vehicle and registration purposes. Allows a certificate of title, at the request of the owner and on payment of a fee prescribed by ADOT, to contain, by attachment, a transfer on death provision where the owner may designate a beneficiary of a title.

# Memorials & Resolutions



## MEMORIALS & RESOLUTIONS

### Dr. Augusto Ortiz; death resolution (S.C.R. 1035)

Expresses the Legislature's sincere regret at the passing of Dr. Augusto "Gus" Ortiz, who championed health care for the poor in Arizona for more than 50 years. Extends the Legislature's deepest sympathies to his surviving family members.

### honoring the Afghanistan delegation (S.C.R. 1039)

Extends the Legislature's welcome to the delegation of young political leaders from the Islamic Republic of Afghanistan during their stay in Arizona in 2008, and encourages all Arizona citizens to promote mutual respect, understanding and friendship.

### death resolution; Governor Evan Mecham (S.C.R. 1041)

Expresses the Legislature's regret at the death of the Honorable Evan Mecham, former Governor of Arizona, and extends deepest condolences to his surviving family members.

### Polly Getzwiller; death resolution (S.C.R. 1043)

Expresses the Legislature's regret at the passing of Polly Getzwiller, a native Arizonan and long-time state legislator, and extends deepest sympathies to her surviving family members.

### Highland high school (S.C.R. 1044)

Pays tribute to the efforts of students of Highland High School and their teacher, Mr. Glen Frakes, in preserving military history by reconstructing the Battle of Palmetto Ranch in a diorama through more than 7,000 donated hours during a three-and-a-half year period.

### sixtieth anniversary of Israel (S.C.R. 1045)

Expresses the Legislature's recognition of the historic significance of the 60<sup>th</sup> anniversary of the reestablishment of the State of Israel and the remarkable achievements of the people of Israel in building a new state and a democratic society in the face of much adversity.

### national day of the cowboy. (S.C.R. 1046)

Expresses the Legislature's support for the designation of a "National Day of the Cowboy" and encourages the people of the United States to observe the day with appropriate ceremonies and activities.

### Taiwan; World Health Organization membership (S.M. 1005)

Expresses the Arizona State Senate's desire that the U.S. President and Congress take action to endorse and obtain, at a minimum, observer status for Taiwan at the World Health Assembly and, more appropriately, membership in the World Health Organization.

## **MEMORIALS & RESOLUTIONS (Cont'd.)**

### Brent Brown death resolution (S.R. 1001)

Expresses the Senate's regret at the passing of Brent Whiting Brown, an educator and administrator at Arizona State University and former executive director of the state agency now known as the Department of Commerce. Extends deepest condolences to his surviving family members.

### death resolution; Albert Wallace Denny (S.R. 1002)

Expresses the Senate's regret at the passing of Albert Wallace "Wally" Denny, who was instrumental in the growth and prosperity of the West Valley and who died at the age of 101. Extends deepest condolences to his surviving family members.

### Cal Holman; death resolution (H.C.R. 2015)

Expresses the Legislature's regret at the untimely death of former legislator Calvin M. Holman and extends deepest condolences to his family and friends.

### go red for women. (H.C.R. 2059)

Proclaims February 2008 as Go Red for Women Month in the State of Arizona to recognize the importance of the ongoing fight against heart disease and stroke.

### George Brooks; death resolution (H.C.R. 2067)

Expresses the Legislature's sincere regret at the passing of the Rev. Dr. George Brooks, Sr., a leading civil rights leader in Arizona for more than 50 years. Extends deepest sympathies to his surviving family members.

### William F. Buckley, Jr. (H.C.R. 2070)

Expresses the Legislature's sincere regret at the passing of William F. Buckley, Jr., a renowned writer and political commentator, and extends condolences to his surviving family members.

### death resolution; John F. Long (H.C.R. 2071)

Expresses the Legislature's sincere regret at the passing of John F. Long, known as the "father of the West Valley," and extends condolences to his surviving family members.

### John Scott Alexander; death resolution (H.R. 2001)

Expresses the House of Representatives' regret at the passing of former state legislator John Scott Alexander and extends condolences to his surviving family members.

### Louis Rhodes; death resolution (H.R. 2002)

Expresses the House of Representatives' regret at the passing of Louis Rhodes, the face of the American Civil Liberties Union in Arizona, and extends deepest condolences to his surviving family members.

## **MEMORIALS & RESOLUTIONS (Cont'd.)**

### death resolution; Opal Tenney Allen (H.R. 2003)

Expresses the House of Representatives' sincere regret at the passing of Opal Tenney Goodman Allen, who gave freely of her time to numerous community endeavors over her lifetime, and extends deepest condolences to her surviving family members.

### death resolution; Senator Boyd Tenney (H.R. 2004)

Expresses the House of Representatives' sincere regret at the passing of the Honorable Nathan Boyd Tenney, who served in the Arizona Legislature for 20 years, and extends deepest sympathies to his surviving family members.

### Brent Brown death resolution (H.R. 2005)

Expresses the House of Representatives' regret at the passing of Brent Whiting Brown, an educator and administrator at Arizona State University and former executive director of the state agency now known as the Department of Commerce. Extends deepest condolences to his surviving family members.

### Rich Genser; death resolution (H.R. 2006)

Expresses the House of Representatives' sincere regret at the death of Richard E. Genser, who distinguished himself through a lifetime of working to save the environment. Extends deepest sympathies to his family and many friends.



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